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 Apple Inc.

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 SAN JOSE DIVISION

15 **NANCY ROMINE MINKLER,**
 Individually and on Behalf of All Others
 16 Similarly Situated,
 17 Plaintiffs,
 18 v.
 19 **APPLE INC.,**
 20 Defendant.

CASE NO. 5:13-cv-05332-EJD
**DECLARATION OF ALEC CIERNY IN
 SUPPORT OF DEFENDANT APPLE
 INC.'S MOTION TO DISMISS
 COMPLAINT**
**(FEDERAL RULES OF CIVIL
 PROCEDURE RULES 12(B)(6) AND 9(B))**
DATE: JULY 18, 2014
TIME: 9:00 A.M.
COURTROOM: 4

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I, Alec Cierny, hereby declare as follows:

1. I am an associate of the law firm of DLA Piper LLP (US), counsel of record for Defendant Apple Inc. (“Apple”) in this action. I am one of the attorneys responsible for the representation of Apple in this action. The facts set forth below are personally known to me to be true and correct, and, if called as a witness, I could and would competently testify to the facts stated herein.

2. Attached to this declaration as **Exhibit 1** is a true and correct copy of the Wikipedia article cited by Plaintiff in paragraph 17, n.3 of her Complaint. I obtained this article from [http://en.wikipedia.org/wiki/Maps_\(application\)](http://en.wikipedia.org/wiki/Maps_(application)) on February 26, 2014.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and this declaration is executed on March 3, 2014, in San Francisco, California.

/s/ Alec Cierny
ALEC CIERNY

Exhibit 1

Maps (application)

From Wikipedia, the free encyclopedia

Maps is a mapping service application developed by Apple Inc. for its iOS and OS X operating systems. It allows turn-by-turn navigation by car or walk including re-routing.

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Background

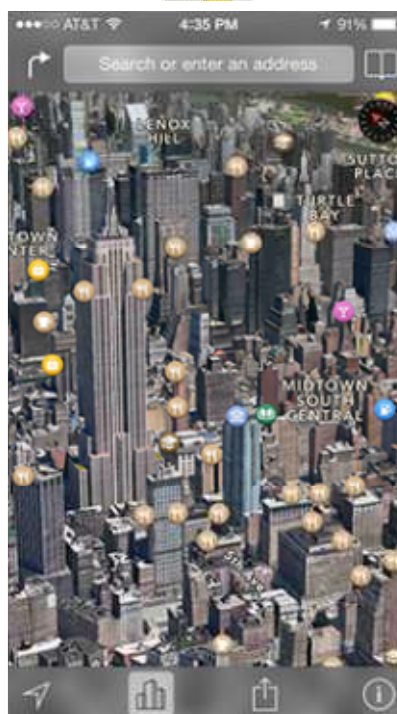
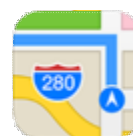
The Maps application has been featured on the iOS (then iPhone OS) operating system since the release of the first-generation iPhone on June 29, 2007, and was powered by Google Maps from then until September 19, 2012.^[1] A new version was announced by Scott Forstall at WWDC 2012 keynote on June 11, 2012 that would use Apple's own mapping system with data provided by a number of providers instead of Google Maps,^{[2][3]} mainly through Dutch manufacturer of navigation systems TomTom,^[4] and a Chinese mapping company specifically for just the Chinese market version, AutoNavi.^[5]

On June 10, 2013, at the Apple Worldwide Developers Conference, Craig Federighi announced that Maps would also be provided with OS X Mavericks in late 2013.^{[6][7]}

Flyover

Locations available in 3D are:

Maps



Flyover view in iOS 7 maps showing the real structures of Empire State Building (left) and Chrysler Building (right) in New York

Developer(s)	Apple Inc.
Initial release	June 29, 2007 (powered by Google Maps)
Stable release	iOS 7.0.3 / October 22, 2013 (powered by Apple)
Development status	Active
Operating system	iOS
Available in	English, French, German
Type	Web mapping
License	Proprietary



Maps

Country	Cities
 Australia	Melbourne, Sydney
 Canada	Calgary, Montreal, Surrey, Toronto, Vancouver
 Denmark	Copenhagen, Roskilde
 Finland	Helsinki
 France	Bordeaux, Lyon, Marseille, Paris, Saint-Étienne
 Germany	Berlin, Cologne, Munich
 Gibraltar	Gibraltar
 Holy See	Vatican City
 Italy	Ancona, Milan, Perugia, Rome,
 Ireland	Dublin
 New Zealand	Auckland, Christchurch
 South Africa	Cape Town
 Spain	Algeciras, Alicante, Barcelona, Madrid, Seville, Valencia
 Sweden	Linköping, Stockholm
 United Kingdom	Birmingham, Glasgow, Leeds, London, Manchester, Wolverhampton

Developer(s)	Apple Inc.
Initial release	October 22, 2013
Stable release	1.0
Development status	Active
Operating system	OS X 10.9 or later
Platform	OS X
License	Freeware
Website	www.apple.com/osx/whats-new/features.html (http://www.apple.com/osx/whats-new/features.html)

Country	State	Cities
 United States	Arizona	Phoenix
	California	Anaheim, Bakersfield, Fresno, Long Beach, Los Angeles, Modesto, Oakland, Riverside, Sacramento, San Diego, San Francisco, San Jose, Santa Ana, Stockton
	Colorado	Denver
	Florida	Miami
	Georgia	Atlanta
	Hawaii	Honolulu
	Illinois	Chicago
	Indiana	Indianapolis
	Louisiana	New Orleans
	Maine	Portland
	Maryland	Baltimore
	Massachusetts	Boston
	Minnesota	Minneapolis, Saint Paul
	Nevada	Las Vegas
	New York	Albany, Buffalo, New York City, Schnectady
	Ohio	Cleveland
	Oklahoma	Tulsa
	Oregon	Portland, Salem
	Pennsylvania	Philadelphia
	Rhode Island	Providence
Tennessee	Memphis, Nashville	
Texas	Arlington, Austin, Dallas, Fort Worth, Houston, San Antonio	
Washington	Seattle, Tacoma	
Wisconsin	Green Bay, Milwaukee	

Non-populated landmarks and areas in photorealistic 3D:

Landmark	Country	District
Hoover Dam	 United States	Arizona/Nevada
Mount Rushmore	 United States	South Dakota

Criticism



Image comparing the version offered by iOS's Maps (left) and the offering of maps by Google Maps (right)

Prior to the release of the new Maps app, commentators had focused on the new 3D or Flyover facility and it was widely praised as outclassing Google's long standing but weak equivalent.

Upon the release of the new version on September 19, 2012,^[8] many users and commentators were critical of the app for a variety of reasons ranging but not limited to improper labeling of places to unmapped roads.^[9] The app was criticized for its lack of certain features contained in Google Maps, including Street View and transit directions.^[10] Users complained about the errors it contained.^[11] This included showing the wrong location of the Apple Store in Sydney, Australia,^[12] marking an entire city as a

hospital, misclassifying a nursery as an airport, and identifying the nearest gas station to be as far as 76 miles away from the user's location.^[13] 3D views appearing in Maps were also distorted in some cases though still better than in Google's 3D maps at the same locations, with iconic constructions like the Brooklyn Bridge seeming to be collapsed or impossibly built.^[14] In response to the criticism, Apple issued a statement, saying the company is "continuously improving" Maps and they "appreciate all of the customer feedback."^[15] On September 28, 2012, Apple CEO Tim Cook posted a letter on the Apple website apologizing for Maps and suggesting that iOS 6 users use third party map apps or websites while Apple works to improve Maps.^[16]

In October 2012, Scott Forstall, Senior Vice President of iOS software and the executive responsible for Maps (or "directly responsible individual," in Apple jargon), was removed from his position.^{[17][18]} According to Adam Lashinsky of *Fortune*, Forstall sealed his fate when he refused to sign the apology for Maps.^[19]

In December 2012, Victoria Police in Australia advised travellers against using the application to get directions to the remote town of Mildura. The app placed Mildura in the middle of Murray-Sunset National Park, 70 km (43 mi) from its correct location. Police noted that several motorists required rescuing after following incorrect directions off the highway into the park. They called this a "potentially life threatening issue," since the park has no water supply of its own and temperatures can get as high as 46 °C (115 °F) in the summer.^[20] Apple made efforts to correct this before any actual deaths were reported. An update released on December 11, 2012, corrected the location of Mildura for some but not all possible routes.^{[21][22]} According to *The Register*, the problem was likely due to a listing in the Gazetteer of Australia for the Rural City of Mildura, the LGA that includes Mildura. The geographic center for that LGA is located in Murray-Sunset Park, which covers almost one-third of its area.^[23] Samsung used the reports of stranded users in a marketing event in Sydney for their own products.^[24] The Victoria Country Fire Authority blamed Apple for "dangerous deficiencies" after the iOS6 version of the map service caused inaccuracies in the Authority's pre-existing bushfire alert app.^[25]

Apple Maps was named one of the Top 10 technology 'fails' of 2012 by CNN in December 2012.^[26]

In September 2013, it was reported that Apple's Maps app was directing drivers heading to Fairbanks International Airport in Fairbanks, Alaska to drive onto an airport taxiway located directly across from the runway, which is used by aircraft on a regular basis.^[27]

Since then, Apple's Maps has improved greatly and is now the preferred iOS map app in the US, beating out Google Maps by a substantial margin. As of November 2013, US iPhone users who used Apple's Maps outnumber Google's maps app by 35 million to 6 million.^[28]

Competitors

An iPhone version of Google Maps returned to the iOS platform on December 13, 2012 as a standalone application released by Google, rather than as the default map feature on the iOS platform. Currently it is not possible to change the default mapping app from Apple Maps except via jailbreaking.^[29] The new Google app still lagged in a few features available on Google's own Android platform, but Google Maps on iOS has been tremendously successful.^{[30][31]} The redesigned Google Maps has been praised for being both aesthetically pleasing and highly functional.^{[31][32]} On July 16, 2013, a new, redesigned version of Google Maps was released on the iOS platform with optimization for the iPad.^[33]

Updates

Since the launch of the iOS Maps software and its aforementioned controversies, Apple executives have promised that improvements will come to the Maps application. On an Apple earnings call, Apple CFO Peter Oppenheimer stated that Apple "has made a number of improvements to Maps" and that the company will "work non-stop" in order to fix the remaining issues.^[34] Apple CEO Tim Cook also said publicly that Apple is "putting the weight of the company" behind improvements to the iPhone, iPad, and iPod touch Maps application. In an interview with Bloomberg, he said that Apple has a big plan to squash the bugs.^[35] On March 19, 2013, Apple released iOS 6.1.3 that included several iOS Maps fixes specific to Japan.^[36] The application also received improvements with the launch of iOS 7, which was released on September 18, 2013.

References

- ↑ Pogue, David (June 27, 2007). "The iPhone Matches Most of Its Hype" (<http://www.nytimes.com/2007/06/27/technology/circuits/27pogue.html?pagewanted=all>). *The New York Times*. Retrieved September 26, 2012.
- ↑ "Acknowledgements" (<http://gspsa21.ls.apple.com/html/attribution.html>). Apple Inc. November 7, 2012. Retrieved December 16, 2012.
- ↑ Markowitz, Eric (June 12, 2012). "Meet 3 Start-ups Behind Apple's New Maps" (<http://www.inc.com/eric-markowitz/start-ups-behind-the-new-apple-maps.html>). Retrieved December 16, 2012.
- ↑ Chen, Brian X. & Wingfield, Nick (September 11, 2012). "Apple Updates Laptops and Mobile Software" (<http://www.nytimes.com/2012/06/12/technology/apple-overhauls-mac-computers-and-introduces-new-mobile-operating-system.html>). *The New York Times*. Retrieved September 23, 2012.
- ↑ "Apple Built Special Version of Maps for China" (<http://blogs.wsj.com/chinarealtime/2012/09/26/apple-built-special-version-of-maps-for-china>). China Real Time Report. Wall Street Journal. September 26, 2012. Retrieved November 16, 2012.
- ↑ "Maps, iBooks, iCloud Keychain coming to OS X Mavericks" (<http://appleinsider.com/articles/13/06/10/maps-ibooks-icloud-keychain-coming-to-os-x-mavericks>). AppleInsider. June 10, 2013.
- ↑ "OS X Mavericks - Do even more with new apps and new features." (<http://www.apple.com/osx/preview/#maps>). Apple Inc.

8. ^ Donna Tam (September 19, 2012). "Apple's iOS 6 release date: Start your downloads on Sept. 19" (http://news.cnet.com/8301-13579_3-57510600-37/apples-ios-6-release-date-start-your-downloads-on-sept-19). CNET. Retrieved September 19, 2012.
9. ^ Allsopp, Ashleigh (September 1, 2012). "Apple's iOS 6 Maps app fails to impress, users want Google Maps back" (<http://www.macworld.co.uk/ipad-iphone/news/?newsid=3382583&pagtype=allchandate>). Macworld. Retrieved September 21, 2012.
10. ^ Fottrell, Quentin (September 21, 2012). "In Apple-Google maps war, consumers lose" (http://articles.marketwatch.com/2012-09-21/finance/33996768_1_google-maps-apple-patents-apple-products). MarketWatch. Retrieved September 23, 2012.
11. ^ "Apple's new map system riddled with errors" (<http://www.emirates247.com/business/technology/apple-s-new-map-system-riddled-with-errors-2012-09-20-1.476398>). Emirates 24/7. Agence France-Presse. September 20, 2012. Retrieved September 21, 2012.
12. ^ "Six maps get Apple store, Sydney location wrong" (http://www.theregister.co.uk/2012/09/23/ios_6_maps_get_apple_store_sydney_location_wrong). The Register. Retrieved September 23, 2012.
13. ^ "17 People Apple Maps Has Already Horribly Mised" (<http://gizmodo.com/5944897/17-people-apple-maps-has-already-horribly-mised>). Gizmodo. September 20, 2012. Retrieved September 23, 2012.
14. ^ Levine, Eitan (September 2012). "Apple iOS 6 Maps Fails" (<http://www.heavy.com/news/2012/09/apple-ios-6-maps-fails>). Heavy. Retrieved June 6, 2013.
15. ^ Wingfield, Nick (September 20, 2012). "Apple on Its iOS 6 Maps: Things Can Only Get Better" (<http://bits.blogs.nytimes.com/2012/09/20/apple-on-its-ios-6-maps-things-can-only-get-better>). *The New York Times*. Retrieved September 25, 2012.
16. ^ Cook, Tim (September 28, 2012). "A letter from Tim Cook on Maps" (<http://www.apple.com/letter-from-tim-cook-on-maps>). Apple Inc. Retrieved September 28, 2012.
17. ^ Rodriguez, Salvador (October 29, 2012). "Apple ousts Scott Forstall, executive in charge of Maps and Siri" (<http://discussions.latimes.com/20/lanews/la-fi-tn-apple-maps-siri-forstall-out-20121029/10>). Los Angeles Times. Retrieved October 29, 2012. "Apple's head of mobile software, Scott Forstall, is leaving the company following the release of Apple Maps and Siri, two major projects that were considered flops for the technology giant."
18. ^ "Apple Announces Changes to Increase Collaboration Across Hardware, Software & Services" (<http://www.apple.com/pr/library/2012/10/29Apple-Announces-Changes-to-Increase-Collaboration-Across-Hardware-Software-Services.html>). Apple Inc. October 29, 2012. Retrieved October 29, 2012.
19. ^ Lashinsky, Adam (October 29, 2012). "Inside Apple's major shakeup" (<http://tech.fortune.cnn.com/2012/10/29/inside-apples-major-shakeup>). Fortune. Retrieved December 10, 2012.
20. ^ "Police concerned with Apple iOS 6 mapping system" (<http://vicpolicenews.com.au/more-news/11081-police-concerned-with-apple-ios-6-mapping-system.html>). Victoria Police. December 10, 2012. Retrieved December 10, 2012.
21. ^ Stuart Rintoul (December 11, 2012). "Victoria police say Apple has half-fixed troubled Maps app" (<http://www.theaustralian.com.au/australian-it/victoria-police-say-apple-has-half-fixed-troubled-maps-app/story-e6frgakx-1226534336744>). The Australian. Retrieved December 12, 2012.
22. ^ "The best of the worst in Apple Maps" (<http://www.smh.com.au/photogallery/technology/technology-news/the-best-of-the-worst-in-apple-maps-20120921-26aop.html>). Retrieved December 17, 2012.
23. ^ Chirgwin, Richard. Apple updates maps to remove Australia's ghost-city in the desert (http://www.theregister.co.uk/2012/12/10/apple_maps_ghost_mildura). The Register, December 10, 2012.
24. ^ Lowensohn, John. Samsung knocks Apple Maps in Sydney marketing stunt (http://news.cnet.com/8301-13579_3-57558757-37/samsung-knocks-apple-maps-in-sydney-marketing-stunt). CNET, December 12, 2012.
25. ^ Moses, Asher (February 12, 2013). "Apple Maps blamed for 'dangerous' inaccuracies in bushfire app" (<http://www.smh.com.au/digital-life/smartphone-apps/apple-maps-blamed-for-dangerous-inaccuracies-in-bushfire-app-20130212-2ea9w.html>). The Sydney Morning Herald. Retrieved September 11, 2013.
26. ^ The top 10 tech 'fails' of 2012 (http://www.cnn.com/2012/12/28/tech/web/tech-fails-2012/index.html?hpt=hp_bn5)

27. ^ Cole, Dermot (September 24, 2013). "iPhone map app directs Fairbanks drivers onto airport taxiway" (<http://www.alaskadispatch.com/article/20130924/iphone-map-app-directs-fairbanks-drivers-airport-taxiway>). Alaska Dispatch. Retrieved September 26, 2013.
28. ^ Dockterman, Eliana (November 12, 2013). "Read more: Failing Up: Apple Maps Takes a Bite Out of Rival Google App" (<http://techland.time.com/2013/11/12/failing-up-apple-maps-takes-a-bite-out-of-google/>). Time. Retrieved September 26, 2013.
29. ^ "Google maps app is BACK on iPhones, fanbois spared death." (http://www.theregister.co.uk/2012/12/13/google_maps_back_to_iphone). The Register. December 13, 2012. Retrieved December 16, 2012.
30. ^ "Google Maps app back on iPhones" (<http://www.aljazeera.com/news/americas/2012/12/201212138032433408.html>). Al Jazeera. December 13, 2012. Retrieved December 13, 2012.
31. ^ ^a ^b "How is Apple Maps doing?" (<http://tech.fortune.cnn.com/2013/05/29/how-is-apple-maps-doing>). Fortune, CNN. May 29, 2013. Retrieved June 6, 2013.
32. ^ "Google's gorgeous new maps" (<http://money.cnn.com/gallery/magazines/fortune/2013/05/28/googles-gorgeous-new-maps.fortune>). Al Jazeera. December 13, 2012. Retrieved December 13, 2012.
33. ^ "The new Google Maps app for iPhone and iPad is here" (<http://google-latlong.blogspot.ch/2013/07/the-new-google-maps-app-for-iphone-and.html>). Google. July 16, 2013. Retrieved August 5, 2013.
34. ^ Ingraham, Nathan. "Apple has made 'a number of improvements' to Maps, will 'work non-stop' to keep fixing issues" (<http://www.theverge.com/2012/10/25/3555616/apple-maps-improvements-work-non-stop>). The Verge. Retrieved February 7, 2013.
35. ^ Tyrangiel, Josh. "Tim Cook's Freshman Year: The Apple CEO Speaks" (<http://www.businessweek.com/articles/2012-12-06/tim-cooks-freshman-year-the-apple-ceo-speaks>). Bloomberg LP. Retrieved February 7, 2013.
36. ^ Gurman, Mark. "Apple releases iOS 6.1.1 beta to developers with major enhancements to Maps for Japan" (<http://9to5mac.com/2013/02/06/apple-releases-ios-6-1-1-beta-to-developers-for-iphone-ipad-and-ipod-touch>). 9to5Mac. Retrieved February 7, 2013.

External links

- Apple Maps (<http://www.apple.com/ios/maps>) – official site

Retrieved from "[http://en.wikipedia.org/w/index.php?title=Maps_\(application\)&oldid=597005757](http://en.wikipedia.org/w/index.php?title=Maps_(application)&oldid=597005757)"

Categories: Apple Inc. software | Internet properties established in 2012 | IOS software | Mobile route-planning software | Route planning software | Web mapping

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