

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:12-cv-1105

JERALD A. BOVINO,

Plaintiff,

v.

APPLE, INC., a California Corporation; and
TARGET CORPORATION, a Minnesota Corporation,

Defendants.

COMPLAINT AND JURY DEMAND

Plaintiff Jerald A. Bovino, by and through counsel, the Fischer Law Firm, P.C., and for his patent infringement case against the Defendant, states and avers as follows:

I. THE PARTIES

1. Plaintiff Jerald A. Bovino, PhD, (hereinafter "Plaintiff Bovino") is a resident of the State of Colorado, having a principal place of residence located at, 804 Hunter Creek Road, Aspen, Colorado 81612.

2. Defendant Apple, Inc. (hereinafter "Defendant Apple") is a Corporation organized and existing under the laws of the State of California, having a principal place of business at 1 Infinite Loop, Cupertino, California 95014.

3. Defendant Target Corporation, doing business as Target, (hereinafter "Defendant Target") is an American retailing company headquartered in Minneapolis, Minnesota and is a corporation organized under the laws of the State of Minnesota, having a principal place of business at 1000 Nicollet Mall, TPS-2672, Mpls, MN 55403.

II. JURISDICTION AND VENUE

4. This is an action for infringement of United States patents arising under 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject matter jurisdiction of the action under Title 28 U.S.C. §1331 and §1338(a).

5. The Court has personal jurisdiction over each Defendant, and venue is proper pursuant to 28 U.S.C. §§1391 and 1400(b). Each Defendant has substantial contacts with the forum as a result of pervasive business activities conducted within the State of Colorado and within this District, including but not limited to: (i) the marketing, sale and distribution of consumer products; and (ii) the marketing and sale of products for infringing portable computer cases.

6. Each Defendant has committed and continues to commit acts of patent infringement, directly and/or through agents and intermediaries, by making, using, selling, offering for sale and/or leasing certain infringing products, services, and systems in Colorado. Specifically, each Defendant sells (directly and/or through intermediaries) infringing portable computer cases in this District.

III. PATENT INFRINGEMENT

7. On 12-20-2005, United States Patent No. 6,977,809 (hereinafter ‘809 Patent¹) was duly and legally issued for a “Portable Computer Case.” A true and correct copy of the ‘809 Patent is attached hereto as **Exhibit 1**.

8. Plaintiff Bovino owns all rights, title, and interest in and to the ‘809 Patent and possesses all rights of recovery under them, including the right to prosecute this action and to

¹ Patent Abstract: “The present invention is directed to a portable computer having an integral case that incorporates a resilient material to protect the portable computer from wear and tear encountered when transporting and/or using the portable computer. The integral case also includes a retractable strap means that can be utilized to facilitate the transporting of the portable computer. The integral case for the portable computer also includes an identification pocket on the exterior surface of the integral case for incorporating identification documents for the portable computer.”

collect damages for all relevant times.

9. As it pertains to this lawsuit, the '809 Patent is infringed by Defendants' use, sale, offering for sale and/or manufacturing of Portable Computer Cases as detailed herein.

COUNT I – INFRINGEMENT OF THE '809 PATENT
DEFENDANT APPLE

10. Plaintiff Bovino incorporates each of the allegations of this Complaint as if fully set forth herein.

11. Defendant Apple has infringed and is continuing to directly infringe, contribute to the infringement of, and/or induce the infringement of, at least one claim of the '809 Patent without Plaintiff Bovino's consent or authorization. Such acts of infringement include, but are not limited to, Defendant Apple's use, sale, provision, and operation of the iPad Smart Cover for the New iPad and the iPad 2.

12. Plaintiff Bovino has been damaged as a result of Defendant Apple's infringing conduct.

13. Defendant Apple is liable to Plaintiff Bovino in an amount that adequately compensates him for Defendant Apple's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. §284.

14. Defendant Apple is further responsible for the indirect infringement of the '809 Patent by providing products to customers, (a) inducing infringement by instructing its respective customers to use the provided products in an infringing manner, and (b) contributing to the infringement of the '809 Patent by providing the infringing products – products that have no substantial non-infringing use – to its respective customers who then infringe the '809 Patent through their infringing use of Defendant Apple's products.

COUNT II – INFRINGEMENT OF THE ‘809 PATENT
DEFENDANT TARGET

15. Plaintiff Bovino incorporates each of the allegations of this Complaint as if fully set forth herein.

16. Defendant Target has infringed and is continuing to directly infringe, contribute to the infringement of, and/or induce the infringement of, at least one claim of the ‘809 Patent without Plaintiff Bovino’s consent or authorization. Such acts of infringement include, but are not limited to, Defendant Target’s use, sale, offering for sale and/or manufacturing of the Apple gear and iPad Smart Covers for the New iPad and the iPad 2, which covers have an infringing patented "rib".

17. Plaintiff Bovino has been damaged as a result of Defendant Target’s infringing conduct.

18. Defendant Target is liable to Plaintiff Bovino in an amount that adequately compensates him for Defendant Target’s infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. §284.

19. Defendant Target is further responsible for the indirect infringement of the ‘809 Patent by providing products to customers, (a) inducing infringement by instructing its respective customers to use the provided products in an infringing manner, and (b) contributing to the infringement of the ‘809 Patent by providing the infringing products – products that have no substantial non-infringing use – to its respective customers who then infringe the ‘809 Patent through their infringing use of Defendant Apple’s products.

II. JURY DEMAND

Plaintiff Bovino hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

III. PRAYER FOR RELIEF

Plaintiff Bovino requests that the Court find in its favor and against Defendants Apple and Target, and that the Court grant Plaintiff Bovino the following relief:

- a. Judgment that one or more claims of the '809 Patent have been infringed, either literally and/or under the doctrine of equivalents, by one or more Defendants and/or by others to whose infringement Defendants have contributed and/or by others whose infringement has been induced by Defendants;
- b. Judgment for reasonable royalty for said infringement;
- c. That Plaintiff Bovino be granted pre-judgment and post-judgment interest on the damages caused by Defendants' infringing activities and other conduct complained of herein;
- d. That this Court declare that Defendants have acted willfully in infringement of the '809 Patent and award Plaintiff Bovino damages pursuant to 35 U.S.C. §284;
- e. That this Court declare this an exceptional case and award Plaintiff Bovino his reasonable attorney's fees and costs in accordance with 35 U.S.C. §285; and
- f. That Plaintiff Bovino be granted all relief to which the Plaintiff is otherwise entitled, and such other and further relief as the Court may deem just and appropriate under the circumstances.

Respectfully submitted, April 20, 2012, by:

ATTORNEYS FOR PLAINTIFF
JERALD A. BOVINO

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/s/ "Lisa C. Secor"

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