

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

**DATA CARRIERS, LLC,**

Plaintiff,

v.

**APPLE INC.,**

Defendant.

Civil Action No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

This is an action for patent infringement in which Plaintiff Data Carriers, LLC (“Data Carriers”) makes the following allegations against Defendant Apple Inc. (“Defendant”).

**PARTIES**

1. Data Carriers is a Delaware limited liability company having a principal place of business at 4023 Kennett Pike, Suite 531, Wilmington, Delaware 19807.

2. On information and belief, Apple Inc. is a California corporation with its principal office at 1 Infinite Loop, Cupertino, California 95014. Apple Inc. has appointed CT Corporation System, 818 West Seventh Street, Los Angeles, California 90017, as its agent for service of process.

**JURISDICTION AND VENUE**

3. This action arises under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, including § 271. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Defendant because, among other reasons, Defendant has done business in this District, filed suit in this District, has committed and continues to commit acts of patent infringement in this District, and has harmed and

continues to harm Data Carriers in this District, by, among other things, using, selling, offering for sale, and importing infringing products and services in this District.

5. Venue is proper in this District under 28 U.S.C. §§ 1391(b)-(d) and 1400(b) because, among other reasons, Defendant is subject to personal jurisdiction in this District, has filed suit in this District, and has committed acts of patent infringement in this District. On information and belief, for example, Defendant has used, sold, offered for sale, and imported infringing products in this District.

**COUNT I  
(INFRINGEMENT OF U.S. PATENT NO. 5,388,198)**

6. Data Carriers is the owner by assignment of United States Patent No. 5,388,198 (the “‘198 patent”), entitled “Proactive Presentation of Automating Features to a Computer User.” The application for the ‘198 patent was filed on April 16, 1992. The patent issued on February 7, 1995, and was originally assigned to Symantec Corporation. A true and correct copy of the ‘198 patent is attached as Exhibit A.

7. Defendant has been and now is directly and/or jointly infringing at least claims 1 and 5 of the ‘198 patent, in this judicial district and elsewhere in the United States, by, among other things, making, using, importing, offering for sale, and/or selling products and services that automatically intervene in the use of a computer system to suggest or present features based on information on the use of the system, including but not limited to autocomplete features of certain electronic devices, including smartphones, tablet computers, other handheld devices, desktop computers, and software loaded onto and used on such devices. Such products and services include, for example, Defendant’s iPad, iPhone, iPod Touch, iTunes, Macbook, desktops, Safari, iOS, and OS X, and various versions thereof, and [www.apple.com](http://www.apple.com). Such products and services continuously monitor and compare user manipulations and program

context with feature templates stored in memory, and present automating features if a match is found.

8. Defendant has also knowingly contributed to the infringement, and continues to contribute to the infringement, of at least claims 1 and 5 of the '198 patent by making and unlawfully selling or offering to sell such products and services to customers, which products and services constitute a material part of the claimed inventions and are not staple articles or commodities of commerce suitable for substantial noninfringing use. Further, Defendant has induced infringement, and continues to induce infringement, of at least claims 1 and 5 of the '198 patent by making and unlawfully selling or offering to sell such products and services to customers, with specific intent that such products and services be used by its customers to infringe the '198 patent. On information and belief, Defendant knew of or should have known of the '198 patent prior to the filing of this action because the '198 patent is cited in Defendant's own patents and patent applications.

9. By engaging in the conduct described herein, Defendant has injured Data Carriers and is thus liable for infringement of the '198 patent pursuant to 35 U.S.C. § 271.

10. On information and belief, Defendant's infringement of the '198 patent has been and continues to be willful and deliberate. For example, on information and belief, Defendant knew of the '198 patent prior to the filing of this action because the '198 patent is cited in Defendant's own patents and patent applications. On information and belief, Defendant's infringing actions were taken despite an objectively high likelihood of infringement of the '198 patent, which risk was known or should have been known to Defendant.

11. Defendant has committed these acts of infringement without license or authorization.

12. As a result of Defendant's infringement of the '198 patent, Data Carriers has suffered monetary damages in an amount not yet determined, but in no event less than a reasonable royalty for the use made of the invention by Defendant, together with interest and costs as fixed by the Court.

**PRAYER FOR RELIEF**

Data Carriers respectfully requests that this Court enter:

- A. A judgment in favor of Data Carriers that Defendant has infringed, directly, jointly, and/or indirectly, the '198 patent, and that such infringement was willful;
- B. A judgment and order requiring Defendant to pay Data Carriers its damages, costs, expenses, and prejudgment and post-judgment interest for Defendant's infringement of the '198 patent as provided under 35 U.S.C. § 284;
- C. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Data Carriers its reasonable attorneys' fees against Defendant;
- D. A judgment and order requiring Defendant to provide an accounting and to pay supplemental damages to Data Carriers, including without limitation, pre-judgment and post-judgment interest; and
- E. Any and all other relief to which Data Carriers may show itself to be entitled.

**DEMAND FOR JURY TRIAL**

Data Carriers, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

March 16, 2012

BAYARD, P.A.

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