

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

MULTI-FORMAT, INC., ) CIVIL ACTION NO.  
 )  
Plaintiff, )  
 )  
v. )  
 ) **JURY TRIAL DEMANDED**  
APPLE, INC. )  
 )  
Defendant. )  
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**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Multi-Format, Inc. (“Multi-Format”) complains of Defendant Apple, Inc. (“Apple”) as follows:

**JURISDICTION AND VENUE**

1. This is a claim for patent infringement and arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original jurisdiction over the subject matter of this claim under 28 U.S.C. § 1338(a).

2. Venue is proper under 28 U.S.C. §§ 1391 and 1400(b) because Defendant is subject to personal jurisdiction, does business and has committed acts of infringement in this judicial district.

**PARTIES**

3. Multi-Format, Inc. is a New Jersey corporation with its principal place of business at 100 Industrial Avenue, Little Ferry, NJ 07643. Multi-Format owns all right, title, and interest in and has standing to sue for damages for any past and future infringement of U.S. Patent No. RE 38,079 E entitled “Multi-Format Audio/Video

Production System” (“the ‘079 Patent”) (Exhibit A). The ‘079 patent was duly and legally issued by the United States Patent and Trademark Office (“USPTO”) on April 15, 2003.

4. Apple, Inc. is a California corporation with a principal place of business at 1 Infinite Loop, Cupertino, California 95014. Apple operates eight retail stores in this judicial district: (1) Apple Store North Michigan Avenue, located at 679 North Michigan Avenue, Chicago, Illinois 60611; (2) Apple Store, Main Place, located at 120 West Jefferson Avenue, Naperville, Illinois 60540; (3) Apple Store, Northbrook, located at 1310 Northbrook Court, Northbrook, Illinois 60062; (4) Apple Store, Oakbrook, located at 402 Oakbrook Center, Oak Brook, Illinois 60523; (5) Apple Store, Woodfield, located at K303 Woodfield Mall, Schaumburg, Illinois 60173; (6) Apple Store, Old Orchard, located at 4999 Old Orchard Center, Skokie, Illinois 60077; (7) Apple Store, Deer Park, located at 20530 N. Rand Road, Ste. 230, Deer Park, Illinois 60010; and (8) Apple Store, Orland Square Mall, located at 428 Orland Square, Ste. D06A, Orland Park, Illinois 60462. In addition, Apple products are available for sale in this judicial district via third party resellers, such as Best Buy, for example, at 1000 West North Avenue, Chicago, Illinois 60622 and AT&T, for example, at 235 West Monroe Street, Chicago, Illinois 60602. Apple thus does substantial business in this judicial district, and provides the products and services accused of infringement in this judicial district, including its personal computers, including but not limited to the Power Mac G5, iPhone (including 3GS and 4G), iPad, iPod classic, iPod nano, iPod Touch, Apple TV, and iTunes products.

5. In addition to its brick and mortar retail stores, Apple provides its personal computers, including but not limited to the Power Mac G5, iPhone (including 3GS and

4G), iPad, iPod classic, iPod nano, iPod Touch, Apple TV, and iTunes products for sale to customers in this judicial district directly through its website at [www.apple.com](http://www.apple.com). Apple also exclusively provides its iTunes software through its website for download and use by customers of this judicial district.

### **PATENT INFRINGEMENT**

6. Apple has made, used, sold, offered for sale and/or imported products which enable the downloading and viewing of video programs, including, but not limited to, the personal computers, including the Power Mac G5, iPhone (including 3GS and 4G), iPad, iPod classic, iPod nano, iPod Touch, Apple TV, and iTunes products, throughout the United States, including in this judicial district. These acts by Apple have directly infringed at least claim 20 of the '079 patent within the meaning of 35 U.S.C. §271(a).

7. Apple has also committed and will continue to commit acts that constitute, with its knowledge of the '079 patent, knowing and intentional inducement of infringement of at least claim 20 of the '079 patent by others within the meaning of 35 U.S.C. § 271(b) through, among other things, its acts of making, using, marketing, distributing, providing, testing, configuring, selling and/or offering to sell in the United States and importing into the United States the personal computers, including but not limited to the Power Mac G5, iPhone (including 3GS and 4G), iPad, iPod classic, iPod nano, iPod Touch, Apple TV, and iTunes products; and allowing, authorizing or otherwise providing capability and/or access for third parties or its customers to, inter alia, download and view video programs. The use of the referenced products by

Apple's customers or other third parties to, inter alia, download and view video programs, constitutes direct infringement within the meaning of 35 U.S.C. §271(a).

8. Apple has also committed and will continue to commit acts that constitute, with its knowledge of the '079 patent, acts of contributory infringement of at least claim 20 of the '079 patent within the meaning of 35 U.S.C. § 271(c) through, among other things, its acts of making, using, marketing, distributing, providing, testing, configuring, selling and/or offering to sell in the United States and importing into the United States the personal computers, including but not limited to the Power Mac G5, iPhone (including 3GS and 4G), iPad, iPod classic, iPod nano, iPod Touch, Apple TV, and iTunes products; and allowing, authorizing or otherwise providing capability and/or access for third parties or its customers to, inter alia, download and view video programs. The use of the referenced products by Apple's customers or other third parties to, inter alia, download and view video programs constitutes direct infringement within the meaning of 35 U.S.C. §271(a).

9. Apple's infringement has injured Multi-Format, and Multi-Format is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

10. Multi-Format has complied with all applicable marking and notice requirements of 35 U.S.C. § 287 with respect to the '079 patent.

11. Apple's infringement has occurred with knowledge of the patents-in-suit and willfully and deliberately in violation of 35 U.S.C. § 284. For example, Apple was given actual notice of the patents-in-suit on or about November 13, 2009, when Multi-Format provided Apple with actual notice of the '079 patent and informed Apple of Multi-

Format's belief that Apple was infringing the '079 patent. Apple has failed to adequately respond to Multi-Format's allegations of infringement and, upon information and belief, has not taken necessary steps to avoid infringement. Instead, Apple has continued to infringe the '079 patent, in an objectively reckless manner, with complete disregard of Multi-Format's rights in the '079 patent.

### **RELIEF SOUGHT**

WHEREFORE, Multi-Format demands judgment against Apple, including its affiliates, officers, agents, servants, employees, and all persons in active concert or participation with them, as follows:

A. An award to Multi-Format of such damages as it shall prove at trial against Apple that is adequate to compensate for their unlawful conduct, said damages to be no less than a reasonable royalty, together with prejudgment interest from the date infringement of the '079 patent began;

B. A determination that this case is exceptional within the meaning of 35 U.S.C. § 285, and an award to Multi-Format of the costs of this action and its reasonable attorneys' fees; and

C. Such other relief as Multi-Format is entitled to recover under any applicable law and as this Court and/or a jury may determine to be proper and just.

### **JURY DEMAND**

Multi-Format hereby demands a trial by jury on all issues triable to a jury in this case.

Dated: September 21, 2010

Respectfully submitted,

/s/ Kara L. Szpondowski

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