

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

**MULTIPLAYER NETWORK
INNOVATIONS, LLC,**

Plaintiff,

v.

APPLE, INC.,

Defendant.

Civil Action No.

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Multiplayer Network Innovations, LLC (“MNI” or “Plaintiff”), by and through its counsel, for its complaint against Defendant Apple, Inc. (“Defendant” or “Apple”), alleges as follows:

BACKGROUND

1. MNI holds U.S. Patent No. 5,618,045 (the, “MNI patent” or the, “‘045 patent”), a patent invented by Dr. Michael Kagan and Ian Solomon.
2. Dr. Kagan is a noted scholar and inventor. He holds a PhD in chemistry from Hebrew University in Jerusalem and is the author of numerous books and journal articles relating to technology, chemistry, and religion. Dr. Kagan’s articles have been published in the journals including Nature and the Journal of Medicinal Chemistry.
3. Dr. Kagan is the inventor of ten United States patents.
4. Ian Solomon is an inventor and entrepreneur who is the co-founder of medical device makers SteadyMed Therapeutics, Inc. and Aespira Ltd.
5. During the mid-1990’s, Dr. Kagan and Mr. Solomon conceived of a way for electronic devices to communicate with one another for the playing of computer games.

6. Dr. Kagan and Mr. Solomon's idea was conceived in part against the backdrop of the conflict in the Middle East. The idea was to use wirelessly connected gaming devices to open up channels of communication between people with divergent views.

7. Among Dr. Kagan and Mr. Solomon's inventions are inventions relating to the use of a device to enable two or more people to play a game over a wireless network.

8. Dr. Kagan and Mr. Solomon's inventions have useful applications to fields such as video gaming hardware and software, smartphone hardware and software, and casino gaming hardware and software, among others.

9. Leading technology companies including Microsoft Corporation, Intel Corporation, Google Corporation, and Samsung Electronics Co. Ltd. have cited the MNI patent numerous times.

10. Over 325 issued United States patents cite the MNI patent.

11. Apple has recognized Dr. Kagan and Mr. Solomon's inventions, including by citing the MNI patent as prior art in 59 United States patents.

12. Plaintiff is the owner by assignment of the MNI patent. The MNI patent is entitled "Interactive Multiple Player Game System and Method of Playing A Game Between at Least Two Players." The MNI patent issued on April 8, 1997, based on a patent application filed on February 8, 1995. A true and correct copy of the MNI patent is attached hereto as Exhibit A.

PARTIES

13. Plaintiff is a Texas limited liability company.

14. On information and belief, Apple, Inc. is a California corporation with a principal place of business at 1 Infinite Loop, Cupertino, California 95014. Apple is registered to do business in the State of Texas and it may be served with process by delivering a summons and a true and correct copy of this complaint to its registered agent

for receipt of service of process, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

JURISDICTION AND VENUE

15. This action arises under the patent laws of the United States, Title 35 of the United States Code. Accordingly, this Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

16. This Court has personal jurisdiction over Defendant Apple. Apple has conducted and does conduct business within the State of Texas. Apple, directly or through subsidiaries or intermediaries (including distributors, retailers, and others), ships, distributes, offers for sale, sells, and advertises (including the provision of an interactive web page) its products and/or services in the United States, the State of Texas, and the Eastern District of Texas. Apple, directly and through subsidiaries or intermediaries (including distributors, retailers, and others), has purposefully and voluntarily placed one or more of its infringing products and/or services, as described below, into the stream of commerce with the expectation that they will be purchased and used by consumers in the Eastern District of Texas. These infringing products and/or services have been and continue to be purchased and used by consumers in the Eastern District of Texas. Apple has committed acts of patent infringement within the State of Texas and, more particularly, within the Eastern District of Texas.

17. Venue is proper in this District under 28 U.S.C. §§ 1391 (b)-(c) and 1400(b) because Defendant is subject to personal jurisdiction in this District, has transacted business in this district and has committed acts of patent infringement in this district.

COUNT I

(Infringement of U.S. Patent No. 5,618,045)

18. Plaintiff MNI realleges and incorporates by reference paragraphs 1-17 above, as if fully set forth herein.

19. Defendant makes, uses, sells, and offers for sale in the United States products and/or services for multiplayer gaming.

20. Defendant has infringed and continue to infringe the MNI patent by, among other things, making, using, offering for sale, and/or selling multiple player game systems and/or services covered by one or more claims of the MNI patent. Such products and/or services include, by way of example and without limitation the iPhone lines of smartphones, the iPhone line of smartphones, the Apple TV Media player, and the iPad line of tablets, the use of which are covered by one or more claims of the MNI patent, including but not limited to claim 1. By making, using, offering for sale, and/or selling such products and services covered by one or more claims of the MNI patent, Defendant has injured MNI and is liable to MNI for infringement of the MNI patent pursuant to 35 U.S.C. § 271(a).

21. Upon information and belief, Apple had knowledge of the '045 patent since at least as early as 2008. Apple cited the '045 patent in the following U.S. Patent, which issued in 2008: U.S. Patent No. 7,441,062. Alternatively, upon information and belief, Apple had knowledge of the '045 patent since at least as early as 2009. Apple cited the '045 patent in the following U.S. Patents, which issued in 2009: U.S. Patent Nos. 7,526,588; 7,529,870; 7,529,871; 7,529,872; 7,558,894; 7,587,540; 7,590,783; 7,627,343; 7,632,114; and 7,634,605. Alternatively, upon information and belief, Apple had knowledge of the '045 patent since at least as early as 2010. Apple cited the '045 patent in the following U.S. Patents, which issued in 2010: U.S. Patent Nos. 7,660,929; 7,673,083; 7,702,833; 7,751,853; 7,757,026; 7,823,214; 7,826,318; and 7,853,746. Alternatively, upon information and belief, Apple had knowledge of the '045 patent since at least as early as 2011. Apple cited the '045 patent in the following U.S. Patents, which issued in 2011: U.S. Patent Nos. 7,877,532; 7,895,378; 7,949,810; 8,006,019; 8,047,966; 8,050,714; 8,078,224; 8,078,776; and 8,082,376. Alternatively, upon information and belief, Apple had knowledge of the '045 patent since at least as early as 2012. Apple

cited the '045 patent in the following U.S. Patents, which issued in 2012: U.S. Patent Nos. 8,095,716; 8,099,536; 8,112,567; 8,117,651; 8,135,891; 8,161,567; 8,165,634; 8,171,194; 8,171,195; 8,190,205; 8,208,853; 8,238,811; 8,239,595; 8,271,038; 8,271,705; 8,285,901; and 8,317,658. Alternatively, upon information and belief, Apple had knowledge of the '045 patent since at least as early as 2013. Apple cited the '045 patent in the following U.S. Patents, which issued in 2013: U.S. Patent Nos. 8,370,555; 8,386,680; 8,402,187; 8,443,096; 8,452,903; 8,467,829; 8,509,691; 8,581,449; and 8,590,036. Alternatively, upon information and belief, Apple had knowledge of the '045 patent since at least as early as June 2014. Apple cited the '045 patent in the following U.S. Patents, which issued in or before June 2014: U.S. Patent Nos. 8,634,761 and 8,763,079.

22. Since at least 2008, Apple has been and still is willfully infringing the '045 patent. At least as early as 2008, Apple had actual knowledge of the '045 patent. Despite having actual knowledge of the '045 patent, Apple has continued to willfully, wantonly, and deliberately infringe the '045 patent. Accordingly, MNI seeks enhanced damages pursuant to 35 U.S.C. § 284 and a finding that this is an exceptional case within the meaning of 35 U.S.C. § 285, entitling MNI to its attorneys' fees and expenses.

23. To the extent applicable, the requirements of 35 U.S.C. § 287(a) have been met with respect to the '045 patent.

24. As a result of Defendant's infringement of the '045 patent, MNI has suffered monetary damages. MNI seeks an award of damages in an amount adequate to compensate for Defendant's infringement, 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

Plaintiff respectfully requests the following relief from this Court:

A. A judgment that Defendant have infringed one or more claims of the '045 patent;

B. An award of damages resulting from Defendant's acts of infringement in accordance with 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 MNI its reasonable attorneys' fees against Defendant;

D. A judgment and order requiring Defendant to provide accountings and to pay supplemental damages to MNI, including, without limitation, prejudgment and post-judgment interest; and

E. Any and all other relief to which MNI may show itself to be entitled.

JURY TRIAL DEMANDED

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff requests a trial by jury of any issues so triable by right.

Dated: August 5, 2014

Respectfully submitted,

/s/ Elizabeth L. DeRieux

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