

**Issued by the  
United States District Court**

SOUTHERN

DISTRICT OF

NEW YORK

MIRROR WORLDS, LLC,  
Plaintiff

v.

APPLE INC.,  
Defendant.

**SUBPOENA IN A CIVIL CASE**

CASE NUMBER:<sup>1</sup> 6:08 cv 88 LED  
(Eastern District of Texas, Tyler Division)

TO: **Richard S. Milner**  
400 E. 56th Street  
APT 15-0  
New York, NY 10022-4147

☒ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

COURTROOM

DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

Weil Gotshal & Manges, LLP  
767 Fifth Avenue  
New York, NY 10022

DATE AND TIME

September 21, 2009  
9:30 a.m.

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects): **See Attachment A.**

PLACE

Weil Gotshal & Manges, LLP  
767 Fifth Avenue  
New York, NY 10022

DATE AND TIME

August 31, 2009

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure. 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

  
ATTORNEY FOR DEFENDANT APPLE INC.

DATE

August 17, 2009

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Stefani C. Smith, Weil, Gotshal & Manges LLP, 201 Redwood Shores Parkway, Redwood Shores, CA 94065;  
Telephone (650) 802-3000

## **ATTACHMENT A**

### **DEFINITIONS**

1. “You,” “Your,” and “Richard Milner” means you, Richard Milner, or anyone working on your behalf.

2. “Cooper & Dunham” means Cooper & Dunham LLP, its predecessors and successors, its past and present parents, subsidiaries, divisions, affiliates, and other organizational or operating units of any of the foregoing, and all past and present directors, officers, employees, agents, and representatives (including consultants and attorneys) of any of the foregoing, and others purporting to act on their behalf.

3. “Mirror Worlds” means Plaintiff Mirror Worlds LLC, its predecessors and successors, its past and present parents, subsidiaries, divisions, affiliates, and other organizational or operating units of any of the foregoing, and all past and present directors, officers, employees, agents, and representatives (including consultants and attorneys) of any of the foregoing, and others purporting to act on their behalf.

4. “Mirror Worlds Technologies” means Counterclaim Defendant Mirror Worlds Technologies, Inc., its predecessors and successors, its past and present parents, subsidiaries, divisions, affiliates, and other organizational or operating units of any of the foregoing, and all past and present directors, officers, employees, agents, and representatives (including consultants and attorneys) of any of the foregoing, and others purporting to act on their behalf.

5. “Abacus” means Abacus Ventures LP, Abacus Ventures LLC, and/or Abacus & Associates, their predecessors and successors, their past and present parents, subsidiaries, divisions, affiliates, and other organizational or operating units of any of the

foregoing, and all past and present directors, officers, employees, agents, and representatives (including consultants and attorneys) of any of the foregoing, and others purporting to act on their behalf.

6. The “Lifestreams Project” means all research, writing or work relating to or following from the Yale Lifestreams Project (including without limitation as described at <http://cs-www.cs.yale.edu/homes/freeman/lifestreams.html>), or to research, writing or work relating to Lifestreams, including without limitation, You, Dr. Gelernter, Nicholas Carreiro, Scott Fertig, Randy Prager or Peter Sparago.

7. “Lifestreams” means Lifestreams, Inc., its predecessors and successors, its past and present parents, subsidiaries, divisions, affiliates, and other organizational or operating units of any of the foregoing, and all past and present directors, officers, employees, agents, and representatives (including consultants and attorneys) of any of the foregoing, and others purporting to act on their behalf.

8. “Plainfield” means Plainfield Specialty Holdings I, Inc., their predecessors and successors, their past and present parents, subsidiaries, divisions, affiliates, and other organizational or operating units of any of the foregoing, and all past and present directors, officers, employees, agents, and representatives (including consultants and attorneys) of any of the foregoing, and others purporting to act on their behalf.

9. “Recognition Interface” means Recognition Interface Inc. and/or Recognition Interface LLC, their predecessors and successors, their past and present parents, subsidiaries, divisions, affiliates, and other organizational or operating units of any of the foregoing, and all past and present directors, officers, employees, agents, and representatives (including consultants and attorneys) of any of the foregoing, and others purporting to act on

their behalf.

10. “Patents-in-Suit” means all patents asserted or to be asserted in the future by Mirror Worlds in this action, including, without limitation, U.S. Patent No. 6,006,227 (“the ’227 patent”), U.S. Patent No. 6,638,313 (“the ’313 patent”), U.S. Patent No. 6,725,427 (“the ’427 patent”), and U.S. Patent No. 6,768,999 (“the ’999 patent”), individually and collectively.

11. “Related Patents or Applications” means issued, pending or abandoned patents or applications relating to the Patents-in-Suit, including without limitation U.S. Application Nos. 09/892,385, 10/238,367, 10/397,752, 10/455,607, 10/834,561, 11/528,070, 11/607,099, 12/049,247, 12/049,249, and 12/077,047, and all other continuing applications, continuations-in-part applications, divisional applications, reexamination proceedings, reissue applications, abandoned applications, published unpublished applications, and any and foreign counterpart applications of any of the foregoing.

12. “Communication” means any form of oral or written interchange, whether in person, by telephone, by facsimile, by telex, by electronic email, or by any other medium.

13. “Document” shall have the meaning set forth in Federal Rules of Civil Procedure 34, and shall include without limitation, information stored in electronic, magnetic, or optical media, drafts, all translations of documents, and all materials relating to communications. A draft or nonidentical copy is a separate document within the meaning of this term.

14. “Relating to” means pertaining to, referring to, and/or relating to the matter specified.

15. The words “any,” “all,” and “each” shall mean any, all, each, and every.

16. “Prior art” is used herein in the same sense that it is used in 35 U.S.C. § 103, and includes, without limitation, any patent or printed publication, or any prior

knowledge, prior use, prior sale or offer for sale in the United States, or other act, event, or thing defined in 35 U.S.C. § 102, taken individually or in combination.

### **INSTRUCTIONS**

1. This request seeks production of all documents and things described in the request which are in your possession, custody or control, whether prepared by you or anyone else, and in any location they may exist.
2. If you withhold any document or any portion thereof on a claim of privilege, provide a privilege log.
3. If you contend that a portion of a document contains information which is immune from discovery, then produce the document with the immune portion redacted therefrom and describe the redacted portion in a privilege log.
4. The words “and” and “or” shall be used conjunctively or disjunctively, whichever makes the request more inclusive.
5. The words “any,” “all,” or “each” shall be construed as “any, all, and each” inclusively.
6. The singular form of a word shall include the plural, and vice versa.

## **REQUESTS**

1. All documents of or relating to Mirror Worlds Technologies, Mirror Worlds, Recognition Interface, Abacus, Plainfield, Lifestreams, the Lifestreams Project, or any of the inventors of the Patents-in-Suit.
2. All documents relating to the preparation, drafting, filing, or prosecution of the Patents-in-Suit or Related Patents or Applications.
3. All documents provided to or obtained by you concerning the preparation, drafting, filing, or prosecution of the Patents-in-Suit or Related Patents or Applications.
4. All non-identical copies, including all drafts and drawings, of the file histories of any of the Patents-in-Suit or Related Patents or Applications.
5. All documents and things relating to any communication, meeting or contact with the U.S. Patent Office or any foreign patent office relating to any of the Patents-in-Suit or Related Patents or Applications.
6. All documents relating to communications between You or any other patent attorney(s) and/or agent(s) and the named inventors of the Patents-in-Suit or Related Patents or Applications relating to the preparation and prosecution of the Related Patents or Applications or applications that lead to issuance of the Patents-in-Suit.
7. All documents and things prepared by or at the direction of the named inventors of the Patents-in-Suit or Related Patents or Applications relating to the subject matter of any claim of the Patents-in-Suit or Related Patents or Applications.
8. All documents relating to the Patents-in-Suit or Related Patents or Applications, including without limitation all notebooks and other documentation of any work related to the inventions claimed in the Patents-in-Suit or Related Patents or Applications.

9. All documents relating to the conception and reduction to practice of each invention claimed in the Patents-in-Suit or Related Patents or Applications, including but not limited to, all documents corroborating conception or reduction to practice of each invention claimed therein.

10. All documents relating to the decision to seek patent protection for the subject matter claimed in the Patents-in-Suit or Related Patents or Applications, including without limitation documents relating to who made that decision, when that decision was made and the reasons for that decision.

11. All documents and things relating to the identification, selection, or determination of the proper named inventors of any of the Patents-in-Suit or Related Patents or Applications.

12. All documents relating to all prior art searches and search results relating to the Patents-in-Suit or Related Patents or Applications, including without limitation, documents relating to who performed the search and when the search was performed.

13. All prior art relating to the claimed inventions of any claims of the Patents-in-Suit or Related Patents or Applications.

14. All non-identical copies of all references cited to the U.S. Patent Office or any foreign patent office during the prosecution of any of the Patents-in-Suit or Related Patents or Applications.

15. All documents relating to the decision of what references to submit or not submit and what materials to cite or not cite to the Patent Office during the prosecution of the Related Patents or Applications and the applications that resulted in issuance of the Patents-in-

Suit, including without limitation documents relating to who made that decision, when that decision was made and the reasons for that decision.

16. Separately for each reference in Request 15, documents sufficient to show Your first awareness of references submitted to the Patent Office (including without limitation prior art submitted in connection with any Information Disclosure Statement) during the prosecution of the Related Patents or Applications or the applications that resulted in issuance of the Patents-in-Suit, including without limitation documents showing when You first became aware of that reference and the circumstances surrounding that first awareness.

17. Separately for each reference in Request 15, documents sufficient to show the named inventor(s)' first awareness of references submitted to the Patent Office (including without limitation prior art submitted in connection with any Information Disclosure Statement) during the prosecution of the Related Patents or Applications or the applications that resulted in issuance of the Patents-in-Suit, including without limitation documents showing when each of the named inventors first became aware of that reference and the circumstances surrounding that first awareness.

18. All written descriptions made by, on behalf of, or at the request of You and/or any named inventor of the Patents-in-Suit relating to each invention claimed in the Patents-in-Suit or Related Patents or Applications.

19. All invention disclosures or other disclosures prior to the filing of the Related Patents or Applications or the applications leading to the Patents-in-Suit relating to each invention claimed in the Patents-in-Suit or Related Patents or Applications.



20. All documents relating to prototypes, drawings, specifications, schematics diagrams, source code, materials, or models relating to software embodying or practicing the inventions claimed in the Patents-in-Suit or Related Patents or Applications.

21. All documents relating to the first public use, demonstration, sale or license, or offer to sell or license any product embodying any invention claimed in the Patents-in-Suit.

22. All documents relating to the first publication that describes the inventions claimed in the Patents-in-Suit or Related Patents or Applications.

23. All documents relating to (a) publications, papers, presentations, or speeches authored in whole or in part by Lifestreams, Mirror Worlds Technologies or by any named inventor of the Patents-in-Suit relating to the inventions claimed in the Patents-in-Suit or Related Patents or Applications, and (b) any awards or acknowledgements received by Lifestreams, Mirror Worlds Technologies, or any named inventors of the Patents-in-Suit or Related Patents or Applications relating to any invention claimed therein.

24. All documents relating to all versions of Lifestreams or Mirror Worlds Technologies' software, including all versions produced, marketed, licensed, and/or sold under other names and including all technology developed under the Lifestreams Project.

25. All documents relating to the involvement of individuals employed by Lifestreams, Mirror Worlds Technologies, Abacus, Recognition Interface, Plainfield, or Mirror Worlds in the prosecution of the applications that lead to the Patents-in-Suit or the Related Patents or Applications.

26. All documents relating to payment of fees or costs for patent prosecution or Patents-in-Suit or Related Patents or Applications by individuals employed by Lifestreams, Mirror Worlds Technologies, Abacus, Recognition Interface, Plainfield, or Mirror Worlds.

27. All documents relating to communications between You and any one or more of Lifestreams, Mirror Worlds Technologies, Abacus, Recognition Interface, Plainfield, or Mirror Worlds relating to prosecution of the applications that lead to the Patents-in-Suit or the Related Patents or Applications.

28. All documents and things relating to any pre-filing communication of the subject matter of any claim of any of the Patents-in-Suit or Relating Applications to any person or entity outside the named inventors, including without limitations Christopher Jones, Scott Fertig, Nicholas Carriero, Christopher Hatchell, Nancy Pellegrino, or Julie Teodosio.

29. All documents and things relating to the ownership, title, transfer, assignment, or licensing (including offers of any of the above) of any of the Patents-in-Suit or Related Patents or Applications in whole or part, alone or in conjunction with any other patents or intellectual property.

30. All documents and things relating to any ownership interest in the Patents-in-Suit or Related Patents or Applications, including any interest in any potential recovery in the above-captioned action.

31. All documents and things relating to any valuation, due diligence, analysis, assessment, or investigation as to the Patents-in-Suit or Related Patents or Applications.

32. All documents and things relating to any formal or informal investigation, search, analysis, opinion, report, study, or observation regarding the scope, validity,

infringement, enforceability, patentability, or inventorship of any of the Patents-in-Suit or any Related Patents or Applications.

33. All documents related to any communications between Lifestreams, Mirror Worlds Technologies, Abacus, Recognition Interface, Plainfield, Mirror Worlds, or any named inventor of the Patents-in-Suit or Related Patents or Applications and You related to the Patents-in-Suit or Related Patents or Applications.

34. All documents related to any communications between any person affiliated with the Lifestreams Project, Lifestreams, Mirror Worlds Technologies, Abacus, Recognition Interface, Plainfield, or Mirror Worlds and any investor, potential investor, purchaser, or potential purchaser of any assets related to those entities, including without limitation the Patents-in-Suit and Related Patents or Applications, or interest in those assets.

35. All documents related to any interviews related to the Patents-in-Suit or Related Patents or Applications of anyone at or associated with Lifestreams, Yale University, Mirror Worlds Technologies, Abacus, Recognition Interface, Plainfield, or Mirror Worlds, including without limitation anyone who is named as an inventor of the Patents-in-Suit or Related Patents or Applications.

36. All documents reflecting or relating to communications or interviews relating to any Yale Computer Science Department Technical Reports, including without limitation any such interviews or communications involving anyone at or associated with Lifestreams, Yale University, Mirror Worlds Technologies, Abacus, Recognition Interface, Plainfield, or Mirror Worlds, including without limitation anyone who is named as an inventor of the Patents-in-Suit or Related Patents or Applications.

37. With respect to each of the Patents-in-Suit and Related Patents or Applications, all documents relating to whether: (a) the apparatuses or methods claimed in the patent allegedly satisfy a long felt need in the art to which they pertain, (b) the industry failed to solve problems that allegedly are solved by the apparatuses or methods claimed in the patent, (c) experts in the industry expressed skepticism relating to the apparatuses or methods claimed in the patent, (d) the apparatuses or method claimed in the patent allegedly have been a commercial success, (e) the industry has recognized the significance of the apparatuses or methods claimed in the patent, (f) the apparatuses or methods claimed in the patent allegedly have been copied by others in the industry, (g) the apparatuses or methods claimed in the patent have advantages over prior apparatuses or methods for performing similar tasks.

38. With respect to each of the Patents-in-Suit and Related Patents or Applications, all documents relating to any nexus or lack thereof between any commercial success of the apparatuses or methods claimed in the patent and the alleged advantages of those apparatuses or methods.

39. All documents concerning your file maintenance and document retention policies and practices, including but not limited to any such documents concerning retention, storage, maintenance, organization, filing, or destruction of documents received from or sent to any of the named inventors of any of the Patents-in-Suit or Related Patents or Applications.