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7 *Attorneys for Plaintiff*
8 ALD SOCIAL LLC,

9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11
12 ALD SOCIAL LLC,
Plaintiff,
13 v.

14 APPLE INC.,
15 Defendant.

Case No.: 23-cv-02695-JSC

**PLAINTIFF’S FIRST AMENDED
COMPLAINT FOR PATENT
INFRINGEMENT**

(35 U.S.C. § 271)

JURY TRIAL DEMANDED

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19 **PLAINTIFF’S FIRST AMENDED COMPLAINT FOR PATENT**
20 **INFRINGEMENT**

21
22 TO THE HONORABLE JUDGE OF SAID COURT:

23 Plaintiff ALD Social LLC (“ALD” or “Plaintiff”), files this First Amended
24 Complaint for Patent Infringement against Apple Inc. (“Apple” or “Defendant”), and
25 would respectfully show the Court as follows:¹
26

27
28 ¹ This First Amended Complaint is filed as allowed by the Court’s Order of July 24,
2023, Doc. No. 49.

1 **I. THE PARTIES**

2 1. Plaintiff is a Delaware corporation having an address located at 220
3 Hunting Hill Lane, West Chester, Pennsylvania 19382.

4 2. On information and belief, Defendant is a California corporation with a
5 principal address of One Apple Park Way, Cupertino, California 95014 and has
6 regular and established places of business throughout this District, including at least
7 at 12545 Riata Vista Circle, Austin, TX 78727. *See*
8 https://www.apple.com/education/purchase/contracts/states/tx_dir.html. Defendant
9 is registered to do business in Texas and has may be served via its registered agent at
10 C T Corp System, located at 1999 Bryan St., Ste. 900 Dallas, TX 75201.

11 3. On information and belief, Defendant directly and/or indirectly
12 develops, designs, manufactures, distributes, markets, offers to sell and/or sells
13 infringing products and services in the United States, including in the Western District
14 of Texas, and otherwise directs infringing activities to this District in connection with
15 its products and services.

16 **II. JURISDICTION**

17 4. This civil action arises under the Patent Laws of the United States, 35
18 U.S.C. § 1 *et seq.*, including without limitation 35 U.S.C. §§ 271, 281, 283, 284, and
19 285 based on Defendant's unauthorized commercial manufacture, use, importation,
20 offer for sale, and sale of the Accused Products in the United States. This is a patent

1 infringement lawsuit over which this Court has subject matter jurisdiction under, *inter*
2 *alia*, 28 U.S.C. §§ 1331, 1332, and 1338(a).

3
4 5. Defendant Apple admits this Court has jurisdiction and venue is proper.

5 6. The amount in controversy exceeds \$75,000 exclusive of interests and
6 costs.

7
8 7. Venue is proper in this Court under 28 U.S.C. § 1400(b) based on
9 information set forth herein, which is hereby repeated and incorporated by reference.

10 **III. THE PATENT-IN-SUIT**

11
12 8. On November 24, 2015, United States Patent No. 9,198,054 (“the ’054
13 Patent”), entitled “Aggregate Location Dynamometer (ALD)” was duly and legally
14 issued by the United States Patent and Trademark Office (“USPTO”). The ’054 Patent
15 claims patent-eligible subject matter and is valid and enforceable. ALD is the
16 exclusive owner by assignment of all rights, title, and interest in the ’054 Patent,
17 including the right to bring this suit for damages, and including the right to sue and
18 recover all past, present, and future damages for infringement of the ’054 Patent.
19 Defendant is not licensed to the ’054 Patent, either expressly or implicitly, nor do they
20 enjoy or benefit from any rights in or to the ’054 patent whatsoever. A true and correct
21 copy of the ’054 patent is attached hereto as **Exhibit A**.

22 9. The ’054 Patent is referred to herein as the “patent-in-suit.”

23
24 10. Plaintiff ALD is the owner of the entire right, title, and interest in and to
25 the patent-in-suit. The patent-in-suit is presumed valid under 35 U.S.C. § 282.

IV. ACCUSED INSTRUMENTALITIES

11. The term “Accused Instrumentalities” or “Accused Products” refers to, by way of example and without limitation, Apple’s Exposure Notifications System (e.g. <https://developer.apple.com/exposure-notification/>).

12. Apple’s Exposure Notifications System utilizes a Bluetooth wireless technology to determine proximity of COVID-19 positive individuals and assess the risk of infection to alert users of this exposure risk, known as the Exposure Notifications System. See <https://covid19.apple.com/contacttracing>.

13. In the context of a pandemic, the risk of infection of an individual can correlate with the risk posed by a crowd. The more time an individual spends in a crowd, the likelier it becomes they are exposed to the COVID-19 virus. Apple’s Exposure Notifications System measures the proximity and duration of exposure between people and determines a risk value for COVID-19 exposure.

14. An exposure in the past can still be a crowd risk due to the nature of viral outbreaks transmitting between people beyond the initial crowd, unlike a conventional crowd risk that would require the individuals in the crowd to physically act together in a localized area. The risk of a viral outbreak persists beyond the dispersal of the crowd. In other words, even after the people in the crowd part ways, the risk is still there and can even spread as the individuals interact with other people away from the initial crowd.

1 15. Additionally, the '054 Patent claims do not have any limitations on the
2 time of risk determination of a viral event. Nor do the claims specify geographic
3 location. Apple's Exposure Notifications System can use the Bluetooth key exchange
4 to estimate proximity to a device and therefore an approximate location relative to the
5 device.
6

7
8 16. Furthermore, the '054 Patent claims only require an indication of a viral
9 event, not a prediction. The claimed crowd risk determinant does not have to predict
10 events, but rather analyze them for a degree of risk. Therefore, Apple calculating risk
11 based on past encounters satisfies the '054 Patent claim limitations because the
12 claimed risk determinant does not require a contemporaneous determination of crowd
13 risk.
14

15
16 **V. COUNT I – PATENT INFRINGEMENT OF THE '054 PATENT**

17 17. Plaintiff restates and realleges the preceding paragraphs of this
18 Complaint as if fully set forth herein.
19

20 18. Defendant has, under 35 U.S.C. §271(a), directly infringed, and
21 continues to directly infringe, literally and/or under the doctrine of equivalents, one
22 or more claims, including without limitation at least claim 1 of the '054 Patent, by
23 making, using, testing, selling, offering for sale and/or importing into the United
24 States Defendant's Accused Products.
25

26 19. On information and belief, Defendant has made no attempt to design
27 around the claims of the '054 Patent.
28

1 20. On information and belief, Defendant did not have a reasonable basis for
2 believing that the claims of the '054 Patent were invalid.

3
4 21. On information and belief, Defendant's Accused Products are available
5 to businesses and individuals throughout the United States and in the State of Texas,
6 including in this District.

7
8 22. ALD has been damaged as the result of Defendant's infringement.

9 23. The claim chart attached hereto as **Exhibit B** describes how the elements
10 of an exemplary claim 1 from the '054 Patent are infringed by the Accused Products.
11 This provides details regarding only one example of Defendant's infringement, and
12 only as to a single patent claim. Plaintiff reserves its right to amend and fully provide
13 its infringement arguments and evidence thereof until its Preliminary and Final
14 Infringement Contentions are later produced according to the court's scheduling order
15 in this case.
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19 **VI. PREYER FOR RELIEF**

20 WHEREFORE, Plaintiff ALD respectfully requests the following relief:

21 A. A judgment that Defendant has directly infringed either literally and/or
22 under the doctrine of equivalents and continue to directly infringe the patent-in-suit;

23 B. A judgment and order requiring Defendant to pay Plaintiff damages
24 under 35 U.S.C. § 284 including past damages based on, *inter alia*, any necessary
25 compliance with 35 U.S.C. §287, and supplemental damages for any continuing post-
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1 verdict infringement through entry of the final judgment with an accounting as
2 needed;

3
4 C. A judgment that this is an exceptional case within the meaning of 35
5 U.S.C. § 285 and Plaintiff is therefore entitled to reasonable attorneys' fees;

6
7 D. A judgment and order requiring Defendant to pay Plaintiff pre-judgment
8 and post-judgment interest on the damages awarded;

9 E. A judgment and order awarding a compulsory ongoing royalty;

10
11 F. A judgment and order awarding Plaintiff costs associated with bringing
12 this action;

13 G. Such other and further relief as the Court deems just and equitable.
14

15 Dated: August 14, 2023

Respectfully submitted,

16
17 RAMEY LLP

18 /s/ Susan S.Q. Kalra

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DEMAND FOR JURY TRIAL

Plaintiff hereby requests a trial by jury on issues so triable by right.

Dated: August 14, 2023

Respectfully submitted,

RAMEY LLP

/s/ Susan S.Q. Kalra

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