

CText IP, LLC
6500 Greenville Ave., Suite 100
Dallas, Texas 75206

April 4, 2024

FRE 408 COMMUNICATION

Apple Inc.
Attn: Shawn Chi, Legal Counsel, IP Transaction
One Apple Park Way
Cupertino, CA 95014

Re: *Follow-up on Infringement of U.S. Patent Nos. 9,246,857 and 10,009,304 held by CText IP LLC, by Apple Inc.*

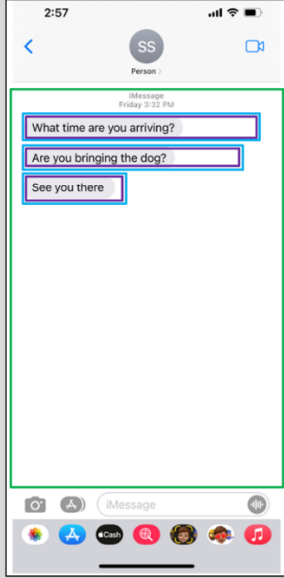
Dear Shawn:

CText received Apple's correspondence from August 9, 2023 (the "August 9 Letter"). In that correspondence, Apple generally reiterates its incorrect positions that Apple does not infringe and the CText Patents are invalid. It appears from that correspondence that Apple is not genuinely interested in exploring a license to the CText Patents. As explained below, Apple's non-infringement positions rely generally on strained claim construction readings and ignore the plain evidence of infringement that CText has presented to Apple. Apple requested a licensing offer from CText in May of 2023. CText provided an offer, but Apple has not yet provided a counteroffer. Could you please let CText know whether Apple intends to do so?

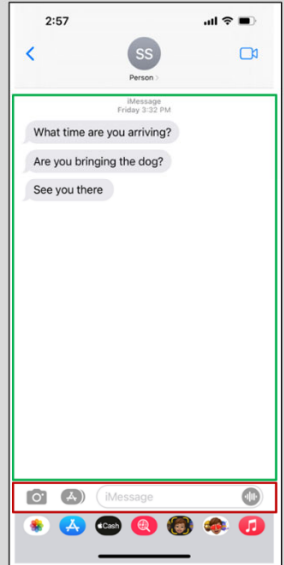
Apple's first non-infringement position remains incorrect. Contrary to Apple's assertion, the claim charts provided by CText demonstrate examples of how Apple meets limitation 1[a] and 1[b] of the '304 Patent. See August 9 Letter at 1.¹ Excerpts of those claim charts are reproduced below:

¹ Apple's letter does not address the specific differences between the several independent claims in CText's infringement claim charts and often cites claim language without tying it to a specific claim. Accordingly, CText addresses claim 1 of the '304 Patent as an example in its discussion below.

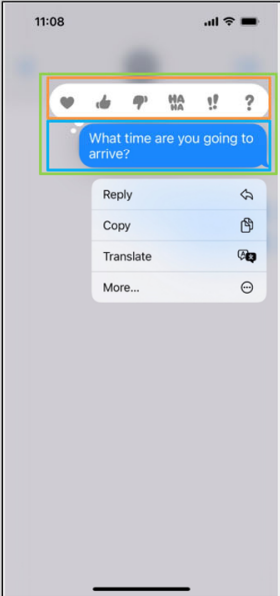
'304 Patent at 1[a] – Apple EOU

CLAIM LANGUAGE	REPRESENTATIVE PROOF
1[a] providing a discussion interface at a first interface device, wherein the discussion interface displays a first message and a second message;	The Messages app provides a discussion interface (e.g., the area displaying the messages) at a first interface device (e.g., the phone, iPod, tablet, or Mac) running the Messages app. The discussion interface displays any number of messages, including a first message and a second message.  A screenshot of an iPhone screen displaying the Messages app. At the top, the status bar shows the time 2:57, signal strength, Wi-Fi, and battery icons. Below the status bar is a navigation bar with a back arrow, a contact icon labeled 'SS', and a share icon. The main area is titled 'Message' with a subtitle 'Friday 3:33 PM'. Three outgoing messages are shown in light blue bubbles: 'What time are you arriving?', 'Are you bringing the dog?', and 'See you there'. Each message bubble is outlined with a red rectangle. A large green rectangle encompasses the entire message list area. At the bottom, there is an 'iMessage' input field with icons for camera, app store, and voice recording. The dock at the very bottom shows icons for various apps including Photos, App Store, Messages, Safari, and Music.

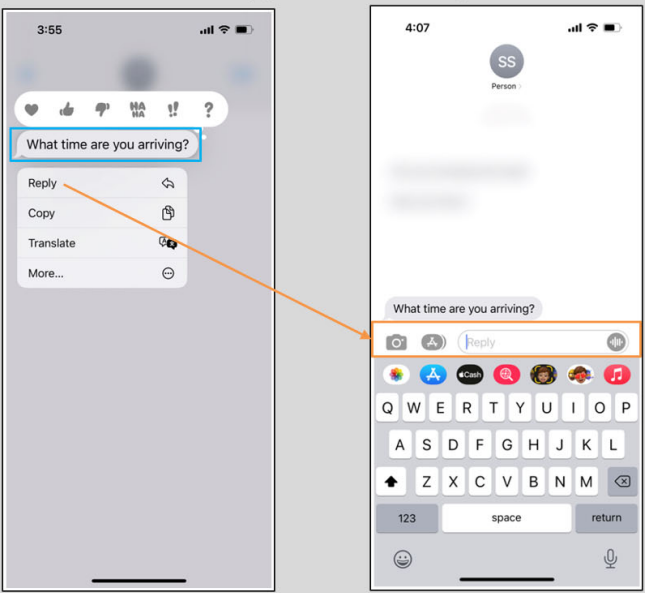
'304 Patent at 1[b] – Apple EOU

CLAIM LANGUAGE	REPRESENTATIVE PROOF
1[b] providing a message entry location for inputting new messages, the message entry location visually associated with the discussion interface,	The Messages app provides a message entry location (e.g., the input box shown below). That message entry location is visually associated with the discussion interface by appearing adjacent to the bottom of the discussion interface.  A screenshot of an iPhone screen displaying the Messages app, identical to the one above. However, in this image, the 'iMessage' input field at the bottom is outlined with a red rectangle, indicating it is the message entry location. The green rectangle still encompasses the message list area. The rest of the interface, including the status bar, navigation bar, and messages, is identical to the previous screenshot.

Apple’s August 9 Letter argues that “a ‘visual element of the message entry Location’ must be changed to match a ‘first visual cue.’” *Id.* at 1. This argument relates to limitation 1[d] and the claim charts CText sent to Apple demonstrate many examples of how Apple meets limitation 1[d] of the ’304 Patent.

CLAIM LANGUAGE	REPRESENTATIVE PROOF
1[d] changing a visual element of the message entry location upon receipt of the first indication to match a first visual cue shared with the first message;	The Messages app changes a visual element of the message entry location upon receipt of the first indication to match a first visual cue shared with the first message in at least two ways. The first example relates to responding via the Tapback options such as the heart, thumbs up, or question mark. In this example, a visual element of the message entry location is changed to match a first visual cue shared with the first message upon receipt of a first indication (e.g., when the first message is pressed). Specifically, the message entry location is moved in close proximity to and changed to a bubble of possible reply options above the first message.  Note that this infringement read aligns with the disclosure in the specification. <i>See, e.g.</i>, ’904 patent at 2:49-53 (“The visual cue may be a proximity from message to message, such that a new message is displayed at a location within the discussion interface in closer proximity to the first message relative to the proximity of the second message to the first message.”); 11:28-32 (“In some embodiments, the message entry location may be modified so that text entered appears in the same format and with the same visual cues as will appear when the text is transmitted, while in others, a tint is applied so that the currently active conversation is clear.”).

'304 Patent at 1[d] – Apple EOU

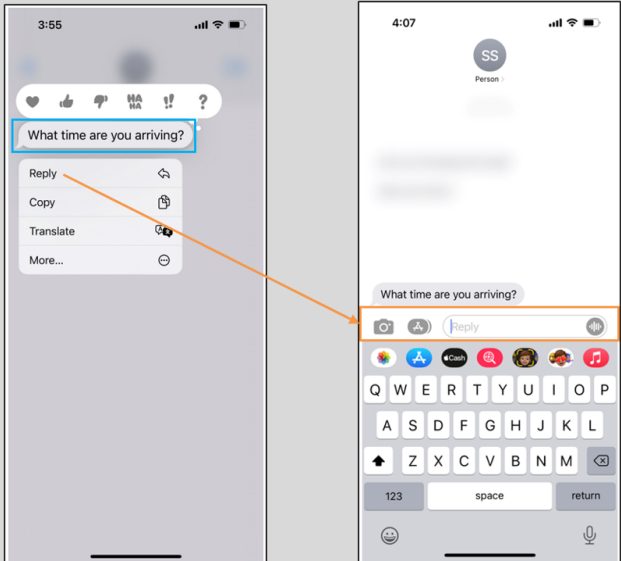
CLAIM LANGUAGE	REPRESENTATIVE PROOF
1[d] changing a visual element of the message entry location upon receipt of the first indication to match a first visual cue shared with the first message;	The second example that meets this limitation relates to responding via the “Reply” option. Once the indication is received via a “Reply” input, at least two visual elements of the message entry location are changed to match a first visual cue shared with the first message. First, the input box for the message entry location now appears in close proximity to the first message. Second, the message entry location includes the text “Reply” instead of “iMessage.” 

Apple further argues that “the bubble of possible reply options is not the original ‘message entry location’ that is simply changed by proximity or other means. It is a different interface altogether.” See August 9 Letter at 2. This position relies on a claim construction that puts a limit on the change that can occur in the message entry location. For Tapbacks, the message entry location is changed to a bubble of possible reply options. Could you please explain how Apple determined what changes to the message entry location Apple would qualify as meeting limitation 1[d] versus being a “different interface altogether?” In its analysis, did Apple consider that the text-input field is no longer displayed in iMessage when the Tapback feature is invoked?

Apple further argues that the “Tapback feature cannot thus be ‘the message entry location’ because it is not visually associated with an interface displaying the first and second message.” *Id.* It appears that Apple is relying on a claim construction position of limitation 1[a] that requires legible display of the first and second message on the discussion interface at all times. Is this Apple’s position? If so, can you please explain the basis for that.

Apple further argues that “[t]he same is true of the Reply feature; the interface is separate.” *Id.* CText disagrees for the same reason as discussed above for Tapbacks. Could you also explain how Apple considers the Reply feature in the right-hand side image below (4:07 time stamp) to use a separate interface.

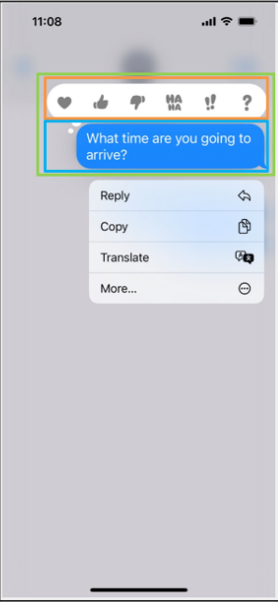
'304 Patent at 1[d] – Apple EOU

CLAIM LANGUAGE	REPRESENTATIVE PROOF
1[d] changing a visual element of the message entry location upon receipt of the first indication to match a first visual cue shared with the first message;	The second example that meets this limitation relates to responding via the “Reply” option. Once the indication is received via a “Reply” input, at least two visual elements of the message entry location are changed to match a first visual cue shared with the first message. First, the input box for the message entry location now appears in close proximity to the first message. Second, the message entry location includes the text “Reply” instead of “iMessage.” 

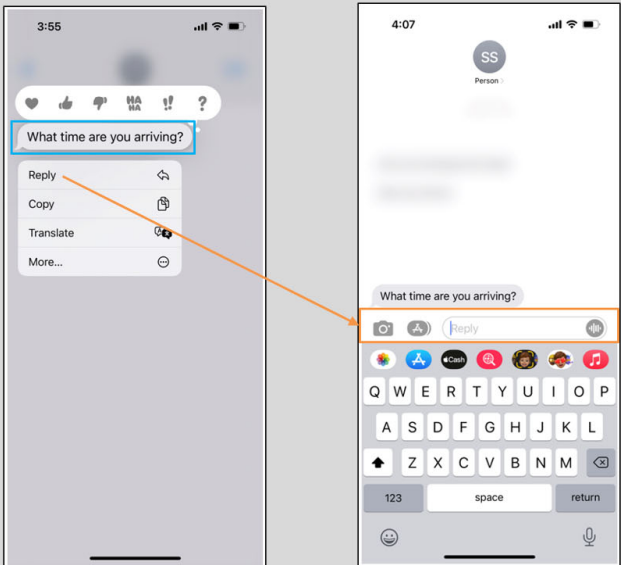
Apple further argues that “[t]he Reply message input is not visually associated with a discussion interface that includes the first and second message and thus bears no relationship to the claimed ‘message entry location.’” *Id.* This position relies on the yet-to-be explained claim construction position noted above for Tapbacks. Apple further argues that “once either feature is invoked, the original discussion interface is hidden from view and replaced with either the bubble of possible reply options or a reply input box.” Does Apple contend that the images above (3:55 and 4:07 time stamps) do not show the discussion interface? If so, could you please explain how their backgrounds do not show the discussion interface?

Apple then argues that CText has not shown changing a visual element of the message entry location. *Id.* As CText explained in the examples of its claim charts, the changing of visual element of message entry location can be the proximity to the first message. It can also be the change to the bubble form. The visual cue of the first message can be its proximity to the message entry location. It can also be the change to the bubble form. Setting aside the correctness of Apple’s claim construction position, Apple is incorrect that CText is “pointing to proximity alone.” *Id.* Moreover, it is unclear what Apple means by its interpretation that the claims require “a separate and distinct visual element of the message entry location.” Does Apple mean that the visual element of the message entry location cannot be proximity to the first message, if the visual cue of the messages is also proximity? If so, could you please explain Apple’s support for that position?

'304 Patent at 1[d] – Apple EOU

CLAIM LANGUAGE	REPRESENTATIVE PROOF
1[d] changing a visual element of the message entry location upon receipt of the first indication to match a first visual cue shared with the first message;	The Messages app changes a visual element of the message entry location upon receipt of the first indication to match a first visual cue shared with the first message in at least two ways. The first example relates to responding via the Tapback options such as the heart, thumbs up, or question mark. In this example, a visual element of the message entry location is changed to match a first visual cue shared with the first message upon receipt of a first indication (e.g., when the first message is pressed). Specifically, the message entry location is moved <u>in close proximity to</u> and changed to a bubble of possible reply options above the first message.  Note that this infringement read aligns with the disclosure in the specification. See, e.g., '904 patent at 2:49-53 ("The visual cue may be a proximity from message to message, such that a new message is displayed at a location within the discussion interface in closer proximity to the first message relative to the proximity of the second message to the first message."); 11:28-32 ("In some embodiments, the message entry location may be modified so that text entered appears in the same format and with the same visual cues as will appear when the text is transmitted, while in others, a tint is applied so that the currently active conversation is clear.").

Apple next argues that “both the ‘reply’ words that you point to as the ‘visual element’ and the ‘visual cue’ are part of what you contend is the message entry location. You do not identify anything that is part of, or associated with, the first message that would constitute the claimed ‘visual cue.’” *Id.* Like most of Apple’s arguments in its August 9 Letter, it is not apparent what specific claim and limitation Apple is addressing in that argument. For claim 1 of the '305 Patent, the word “Reply” is shown, for example, as a visual cue below the message in the image below (3:55 time stamp):

'304 Patent at 1[d] – Apple EOU	
CLAIM LANGUAGE	REPRESENTATIVE PROOF
1[d] changing a visual element of the message entry location upon receipt of the first indication to match a first visual cue shared with the first message;	The second example that meets this limitation relates to responding via the “Reply” option. Once the indication is received via a “Reply” input, at least two visual elements of the message entry location are changed to match a first visual cue shared with the first message. First, the input box for the message entry location now appears in close proximity to the first message. Second, the message entry location includes the text “Reply” instead of “iMessage.” 

Apple’s invalidity positions also remain incorrect. Apple’s August 9 Letter only identified the Castellucci reference, which Apple’s March 23 Letter had already discussed, and CText’s June 2 Letter had already distinguished. Despite CText explaining in its June 2 Letter that Apple had failed to provide a *prima facie* showing of Castellucci meeting all the claim limitations, Apple’s August 9 Letter did not attempt to correct that failure. By failing to address each claim limitation, Apple ignores the shortcomings of Castellucci. For example, independent claims of the ’857 Patent and ’304 Patent each include limitations that generally recite “receiving, at the first interface device, a first indication that the first message is part of an active conversation” (e.g., ’857 Patent at 1[b]) and “changing a visual element of the message entry location upon receipt of the first indication” (e.g., ’857 Patent at 1[c]). Apple never explains how Castellucci discloses those indications.

In its August 9 Letter, Apple’s only argument is that “the visual element 612 does change to one of the other boxes (highlighted in purple) depending on what message the user chooses to respond to (i.e. first indication that a first new message is responsive to a first message).” Notably, Apple did not provide any citation to Castellucci to support that position. Instead, Apple unilaterally describes item 612 as “visual element,” choosing to ignore actual phrase in Castellucci: “VDT buttons 612, 614, 616.” Could you please explain, with support from Castellucci, why Apple contends that VDT button 612 is part of the message entry location and how the message entry location changes in response to the claimed indications in CText’s patents?

As always, I thank you for your attention to this matter. CText looks forward to Apple's response.

Most Sincerely,

A handwritten signature in black ink, appearing to read 'Anthony Vecchione', with a stylized, cursive script.

Anthony Vecchione
CText IP, LLC