IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

CTEXT IP LLC,	)
	)
Plaintiff,	)
	) Civil Action No. 1:24-cv-8821-JMF
v.	)
	) **JURY TRIAL DEMANDED**
APPLE INC.,	)
	)
Defendant.	)
	)

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff CText IP LLC files this First Amended Complaint against Defendant Apple Inc. for infringement of U.S. Patent No. 9,246,857 ("the '857 Patent") and U.S. Patent No. 10,009,304 ("the '304 Patent") (collectively, the "Asserted Patents").

THE PARTIES

1. Plaintiff CText IP LLC ("CText") is a Texas limited liability company located in Dallas, Texas.

2. Apple Inc. ("Apple") is a California corporation with its principal place of business in Cupertino, California. Apple does business in the State of New York and in the Southern District of New York.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1, *et seq*., including, without limitation, 35 U.S.C. §§ 271, 281, 284, and 285.

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this judicial district under 28 U.S.C. § 1400(b). Apple has committed acts of infringement in this district, including by selling iOS devices to consumers in

this District, and has regular and established places of business in this district, including at 11 Penn Plaza, New York, NY 10001; 767 Fifth Avenue, New York, NY 10153; 45 Grand Central Terminal, New York, NY 10017; and 401 W 14th Street, New York, NY 10014.

6. Apple is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the New York Long Arm Statute, due at least to its substantial business in this State and judicial district, including: (1) at least part of its infringing activities alleged herein; and (2) regularly doing or soliciting business, engaging in other persistent conduct, and/or deriving substantial revenue from goods sold and services provided to New York residents.

THE ASSERTED PATENTS AND TECHNOLOGY

7. CText is the sole and exclusive owner of all right, title, and interest in the Asserted Patents and holds the exclusive right to take all actions necessary to enforce its rights in, and to, the Asserted Patents, including the filing of this patent infringement lawsuit. Indeed, CText owns all substantial rights in the Asserted Patents, including the right to exclude others and to recover damages for all past, present, and future infringements.

8. The '857 Patent is entitled, "Method and System for Correlating Conversations in a Messaging Environment." The '857 Patent lawfully issued on January 26, 2016, and stems from U.S. Patent Application No. 14/581,178, which was filed on December 23, 2014, and claims priority to U.S. Provisional Application No. 61/920,177 (filed on December 23, 2013), U.S. Provisional Application No. 62/000,220 (filed May 19, 2014), and U.S. Provisional Application No. 62/061,308 (filed on October 8, 2014). A copy of the '857 Patent is attached hereto as Exhibit A.

9. The '304 Patent is entitled, "Method and System for Correlating Conversations in a Messaging Environment." The '304 Patent lawfully issued on June 26, 2018, and stems from

U.S. Patent Application No. 14/972,919, which was filed on December 17, 2015, and is a continuation of U.S. Patent Application No. 14,581,178 (filed on December 23, 2014), which issued as the '857 Patent. The '304 Patent also claims priority to U.S. Provisional Application No. 61/920,177 (filed on December 23, 2013), U.S. Provisional Application No. 62/000,220 (filed May 19, 2014), and U.S. Provisional Application No. 62/061,308 (filed on October 8, 2014). A copy of the '304 Patent is attached hereto as Exhibit B.

10. The claims of the Asserted Patents are not directed to an abstract idea or other ineligible subject matter, and they are not well-understood, routine, or conventional. The invention disclosed and claimed by the Asserted Patents "relates to methods and systems for correlating conversations in a messaging environment, such as in a chat application for a mobile phone." Ex. A, 1:15-17.[1] To begin explaining how their invention involves an improvement to graphical user interfaces for electronic messaging, the specification of the Asserted Patents introduces its subject matter as follows: "[v]arious forms of electronic communications have become ubiquitous in recent years, with internet technologies allowing for new and rapid forms of communications. These forms of communications, such as instant messaging, often rely on a 'chat' interface, for transmitting short messages, referred to as 'chats,' rapidly between users." *Id.* at 1:21-26. The specification continues by stating that "[t]hese chats often form an extended dialogue between multiple parties, stretching across multiple conversation topics and extended periods of time." *Id.* at 1:26-28. Then, the specification introduces the overarching problem that the claims intend to solve: "[a]ccordingly, while a participant in such a dialogue may continue to submit chats

[1] Because the Asserted Patents share a common specification, the citations in this section are to the '857 Patent only.

responsive to earlier received chats, it is often unclear what earlier question or prompt the participant is answering or responding to." *Id.* at 1:29-32.

11. The specification next elaborates on that problem by describing examples of issues that arise in typical electronic messaging at the time. The specification states that "a first chat participant may send two questions, and a second chat participant may respond to the second question prior to responding to the first question." *Id.* at 1:33-35. The specification explains that "[t]his may occur for a variety of reasons. For example, the second chat participant may not wish to respond to all questions, or the questions may have been delivered to him out of order. Alternatively, the response order may have simply made sense to the second user at the time, or the response order may differ for any number of other reasons." *Id.* at 1:35-41.

12. The Asserted Patents continue to discuss the issues that arise in the prior art, stating "[e]xtended chat sessions therefore often comprise different types of messages, such as questions, prompts, offhand comments, and answers, and typically involve multiple conversations continuing in parallel, with messages, or chats, presented to users in chronological order." *Id.* at 1:42-46. Then the specification explains that "[t]his simple chronological ordering can lead to confusion, since it may not be clear what the participant is responding to in any particular chat, particularly where the participants switch between topics rapidly." *Id.* at 1:46-50.

13. The specification concludes its examples of the issues the Asserted Patents intend to solve with the following statement: "[f]or a variety of reasons, in various other communication formats, it is not always clear what earlier comment a particular comment is responsive to. For example, an email may include questions on multiple topics, while a response may respond to those questions out of order. The same issues occur in online commenting systems, and the issues are enhanced when more than two participants are involved in a chat." *Id.* at 1:51-57.

14. The specification then summarizes the need that the Asserted Patents address as follows: "[t]here is a need for a messaging method that allows parties conversing to follow multiple conversations exactly, even where those multiple conversations are intertwined and include questions, prompts, and answers that cross each other chronologically." *Id.* at 1:58-62.

15. To solve the problems described above, e.g., "a participant in such a dialogue may continue to submit chats responsive to earlier received chats, it is often unclear what earlier question or prompt the participant is answering or responding to," (*id.* at 1:29-32) and address the need of "allowing parties conversing to follow multiple conversations exactly in an electronic messaging environment, even where those multiple conversations are intertwined and include questions, prompts, and answers that cross each other chronologically," (*id.* at 1:58-62) the specification describes many improvements that the Asserted Patents offer. These improvements include, for example, **(a)** allowing indications for active conversations (*see, e.g., id.* at 2:4-10), **(b)** associating new messages received at a message entry location with active conversations (*see, e.g., id.* at 2:13-15); **(c)** sharing visual cues by the messages in the active conversation (*see, e.g., id.* at 2:13-18); **(d)** allowing conversational affiliations to be applied after messages are entered (*see, e.g., id.* at 2:19-22); **(e)** indicating that different messages or conversations are active and applying different visual cues to them as well as defining new messages received at the message entry location as part of the new active conversation (*see, e.g., id.* at 2:23-33); **(f)** applying visual elements to the discussion interface or message entry location to highlight the identity of the active conversation, wherein the visual cue is reflected in the visual elements (*see, e.g., id.* at 2:37-42); **(g)** the visual cue may be a proximity from message to message (*see, e.g., id.* at 2:43-47); **(h)** and applying the solutions across multiple interface devices, e.g., changes made at the first interface device, such as identification of active conversations and the affiliation of comments with different

conversations, are reflected at a second interface device using visual cues (*see, e.g., id.* at 2:48-55); and **(i)** applying visual cues while the messages remain listed in the chronological order in which they were received or reorganizing the messages to reflect the groupings of conversations (*see, e.g., id.* at 2:34-37).

16. Those solutions and improvements are reflected in the claims of the Asserted Patents. Accordingly, the claims are not directed to an abstract idea or other ineligible subject matter but instead are directed to key technical improvements to messaging environments and graphical user interfaces on digital communication devices. For example, claim 1 of the '857 Patent recites several of those improvements as follows:

> 1[pre]. A computer based method for correlating conversations in a messaging environment, the method comprising:
>
> 1[a] providing a discussion interface at a first interface device, wherein the discussion interface displays a first message and a second message;
>
> 1[b] providing a message entry location for inputting new messages, the message entry location associated with the discussion interface,
>
> 1[c] **receiving, at the first interface device, a first indication that the first message is part of an active conversation**; *(see improvement (a) above)*
>
> 1[d] **changing a visual element of the message entry location upon receipt of the first indication to match a first visual cue shared by messages associated with the active conversation**; *(see improvement (f) above)*
>
> 1[e] receiving a first new message at the message entry location; and
>
> 1[f] displaying the first new message within the discussion interface at the first interface device,
>
> 1[g] **wherein the displaying of the first new message incorporates the first visual cue shared by messages associated with the active conversation.** *(see improvements (b) and (c) above)*

17. Using those limitations in combination with the others, claim 1 provides for an improved structure and functionality for a graphical user interface ("GUI") used for electronic messages. This improved structure and functionality addresses the problems in the specification,

e.g., "a participant in such a dialogue may continue to submit chats responsive to earlier received chats, it is often unclear what earlier question or prompt the participant is answering or responding to," (*id.* at 1:29-32) and "solves the need for a messaging method that allows parties conversing to follow multiple conversations exactly, even where those multiple conversations are intertwined and include questions, prompts, and answers that cross each other chronologically, as described in the specification" (*id.* at 1:58-62). The claim limitations as a whole recite an improved GUI structure and functionality. Claim 1 describes, for example, receiving an indication of the active conversation, changing a visual element of the message entry location of the GUI itself to match the visual cues of the messages in the active conversation, receiving a new message at that changed message entry location, and displaying the messages in the active conversation including the new message with the visual cue shared by them. Because claim 1 of the '857 Patent recites an improved structure and function of a GUI itself, it is not ineligibly abstract. Claim 15 of the '857 Patent includes similar limitations to claim 1, and therefore it is also not abstract.

18. The dependent claims of the '857 Patent add limitations that further take those claims outside the realm of abstractness. For example, claim 14 adds the limitation of "wherein the first visual cue is in the form of proximity such that the first new message is displayed at a location within the discussion interface in closer proximity to the first message relative to proximity of the second message to the first message." Thus, claim 14 restricts the first visual cue to proximity, requiring that the first new message is displayed at a location within the discussion interface in closer proximity to the first message relative to proximity of the second message to the first message. And because limitation 1[d] recites "<u>changing a visual element of the message entry location</u> upon receipt of the first indication <u>to match a first visual cue</u> shared by messages associated with the active conversation," in claim 14, the visual element of proximity of the

message entry location to messages associated with the active conversation must also be changed, which differs from conventional GUIs. Changing the proximity of the message entry location in a GUI to the messages in the active conversation adds a specific improvement to a graphical user interface, which "allows parties conversing to follow multiple conversations exactly, even where those multiple conversations are intertwined and include questions, prompts, and answers that cross each other chronologically." This improved GUI structure allows the user to ensure that the message it is entering is responding to the correct conversation. Accordingly, claim 16 is not abstract because it provides an improved structure and function for a GUI.

19. The other dependent claims of the '857 Patent also provide further improved structures and functions for GUIs as follows: claim 2, which includes the limitation "wherein the first indication is generated by a tapping input at a touch sensitive display of the first interface device"; claim 16 with similar limitations to claim 2; claim 5, which includes the limitation, "defining, upon receiving the first indication, the first conversation as the active conversation, and defining the first new message as part of the first conversation, wherein the first visual cue is incorporated into any previously displayed messages that are part of the first conversation"; claim 6, which includes the limitation "receiving, at the first interface device, after displaying the first new message, a second indication that the second message is part of an active conversation; defining, upon receiving the second indication, the active conversation as the second conversation exclusively; receiving a second new message at the message entry location; and displaying the second new message in the discussion interface at the first interface device; wherein the displaying of the second new message incorporates a second visual cue shared by messages associated with the second conversation"; claim 7, which includes the limitation "wherein the first and second new messages are displayed in the discussion interface in the chronological order in which they were

received"; claim 8, which includes the limitation "changing a visual element of the message entry location upon receipt of the first indication to match the first visual cue, and upon receipt of the second indication, changing the visual element of the message entry location match the second visual cue, such that the visual element of the message entry location matches the defined active conversation".

20. Because the '304 Patent is a continuation of the '857 Patent, their specifications describe the same shortcomings in the prior art, problems to be solved, and solutions. Like the '857 Patent, the '304 Patent includes claims that reflect those solutions and are not abstract or ineligible for the same reasons as the claims of the '857 Patent. Those claims include claims 1 and 14 (with similar limitations to claims 1 and 15 of the '857 Patent); claims 2 and 15 (with similar limitations to claim 2 and 16 of the '857 Patent); claim 6 (with similar limitations to claim 5 of the '857 Patent); claim 7 (with similar limitations to claim 6 of the '857 Patent); claim 11, which includes the limitation "wherein the first visual cue is in the form of text associated with the first message and proximity to text associated with the first message such that after receiving the first indication, the visual element of the message entry location is changed to present text associated with the first message and, upon receiving the first new message, the first new message is displayed at a location within the discussion interface in closer proximity to the first message relative to proximity of the second message to the first message"; and claim 12, which includes the limitation "wherein the first visual cue is in the form of text associated with the first message such that after receiving the first indication, the visual element of the message entry location is changed to present text associated with the first message and, upon receiving the first new message, the first new message is displayed with text associated with the first message."

21. The ’857 Patent faced and overcame a Section 101 eligibility rejection during prosecution. The examiner of the ’857 Patent found that the original claims in the application were directed to an abstract idea and were well-understood, routine, and conventional. Exhibit F (Condensed ’857 Patent File History), Non-Final Rejection (May 29, 2015) at 2-4. The examiner further found that “the claims do not amount to an improvement to the functioning of a computer/device itself.” *Id*. at 3. Following that rejection, the ’857 Patent applicant initiated an interview with the examiner. *Id*., Applicant-Initiated Interview Summary (August 19, 2015) at 2. During that interview the applicant and the examiner “discussed [the] 101 rejection,” and the applicant committed to file “an amendment to overcome the rejections made in the first office action.” *Id.* The examiner then issued a notice of allowability that was “responsive to the interview on August 19, 2015” and included an examiner’s amendment to the claims, as authorized by the applicant. *Id.*, Notice of Allowability (September 4, 2015) at 1-2. For independent claim 1, the amendment included moving a limitation, an amendment for antecedent basis, and adding the following limitation: “changing a visual element of the message entry location upon receipt of the first indication to match a first visual cue shared by messages associated with the active conversation.” *Id*. at 2-3. The amendments to independent claim 16 also included moving a limitation and adding the following limitation “modifying a visual element of the message entry location based on which of the conversations is the active conversation.” *Id*. at 4. In other words, the USPTO amended the asserted claims of the ’857 Patent to ensure that they improved the conventional GUIs that existed at the time and that they were neither directed to an abstract idea nor were well-understood, routine, and conventional.

22. The ’304 Patent also faced and overcame a Section 101 eligibility rejection during prosecution. The examiner of the ’304 Patent found that the initial claims of the application that

issued as the ’304 Patent were directed to an abstract idea “without significantly more.” Exhibit G (Condensed ’304 Patent File History), Non-Final Rejection (July 6, 2017) at 2. The examiner stated that the claims were directed to “the to an abstract idea similar to that of collecting information, analyzing it, and displaying certain results of the collection and analysis (*Electric Power Group*), or [c]ollecting, displaying and manipulating data (*Int. Ventures v. Cop One Financial*, or [d]elivering user-selected media content to portable devices (*Affinity Labs v. Amazon.com*).” *Id.* at 3. The examiner further found that “[a]ll claimed elements are directed to an idea standing alone such as an uninstantiated concept, plan or scheme as well as mental process.” *Id.* The examiner continued, discussing that the claims did not add anything more than “generic computer device structure that serves to perform generic computer/device functions that are well-understood, routine, and conventional activities previously known to the pertinent industry” and that the dependent claims were likewise ineligible. *Id.* at 3; *see also id.* at 3-5 (continuing the Section 101 rejection).

23. In response, the applicant amended the claims and argued against the examiner’s Section 101 rejection. *Id.*, Response to Non-Final Office Action (December 27, 2017) at 2-8. The amendments were similar to those made in the prosecution of the ’857 patent, including the addition of imitations that recite “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” (claim 1) and “changing a visual element of the message entry location upon receipt of the first indication to match a first visual cue shared with one of the several messages” (claim 16, which became claim 14). *Id.* at 2-5. The applicant explained that the examiner’s Section 101 rejection “skirts the actual elements” of the original claim such as the “visual cue being shared only by specific messages, indicating a response to the identified message.” *Id.* at 7. The applicant also argued that it amended

claims to "incorporate features from independent claims and to clarify some of these features" and to "highlight the transformation of a visual element of the message entry location upon receipt of the first indication." *Id.* (emphasis added). The applicant argued that those amended claims were not comparable to *Elec. Power Group* but were instead comparable to *Enfish*. *Id.* at 8. Specifically, the applicant stated that it "has amended the claims to clarify the claimed methods. However, the claim is clearly directed to a concrete solution to a defined problem. Accordingly, the claims are not directed to an abstract concept at all, and instead are directed to improved methods for correlating conversations in a messaging environment." *Id.* The applicant continued, "This is not a case where the claims are simply implementing a standard analysis using a computer. Instead, as in *Enfish,* 'the claims are directed to a specific implementation of a solution to a problem in the software arts' and are not directed to an abstract idea." *Id.* The applicant concluded, "[a]ccordingly, and particularly in view of the comprehensive amendments to the claims, Applicant respectfully requests that the rejections under 35 U.S.C. §101 be withdrawn." *Id.*

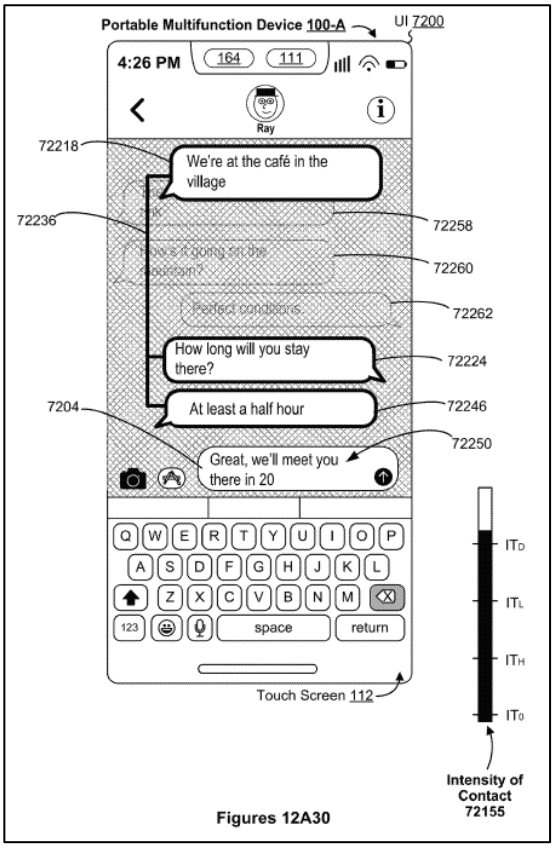
24. The examiner then issued a Notice of Allowance for the '304 Patent. *Id.*, Notice of Allowance (February 26, 2018). The Notice of Allowance was responsive to "the amendment, remarks and terminal disclaimer filed on December 27, 2017," which included the amendment and remarks related to Section 101. *Id.* at 2. The USPTO initially rejecting the original claims of the application that issued as the '304 Patent as abstract but then allowing the amended, final claims as eligible under Section 101 indicates that those claims are not abstract and are directed to more than what was well-understood, routine, and conventional.

25. Moreover, Apple's own patents demonstrate that the Asserted Patents are not abstract given that Apple has filed for and received patents with claims of similar scope on graphical user interfaces. For example, claim 1 of U.S. Patent 11,625,165 ("Apple's '165 Patent"),

filed more than 7 years after the application that matured into the ’857 patent, recites the following claim that focuses on grouping messages in a conversation.

> 1. A method of managing a messaging application executed by an electronic device having a display and at least one input device, comprising:
>
> displaying a messaging user interface of the messaging application on the display, the messaging user interface including a conversation transcript of a messaging session between a user of the electronic device and at least one other user, a message-input area, wherein the conversation transcript includes a plurality of messages and a plurality of message regions, each message region containing a respective message of the plurality of messages;
>
> while displaying the messaging user interface,
>
> <u>detecting a first input on the at least one input device at a location corresponding to a first respective message in the conversation transcript</u>, wherein the first respective message is contained in a first respective message region of the plurality of message regions;
>
> in response to detecting the first input, selecting the first respective message and displaying an indication that the first respective message has been selected;
>
> detecting one or more second inputs on the at least one input device, including one or more message composition inputs; and
>
> in response to detecting the one or more second inputs:
>
> displaying, in a second message region in the conversation transcript distinct from the first respective message region, a second message corresponding to the one or more message composition inputs; and
>
> <u>displaying a grouping indicia that connects the first respective message region with the second message region</u>;
>
> while displaying the grouping indicia that connects the first respective message region with the second message region, detecting a third input; and
>
> in response to detecting the third input, displaying the first respective message region and second message region overlaid on the conversation transcript.

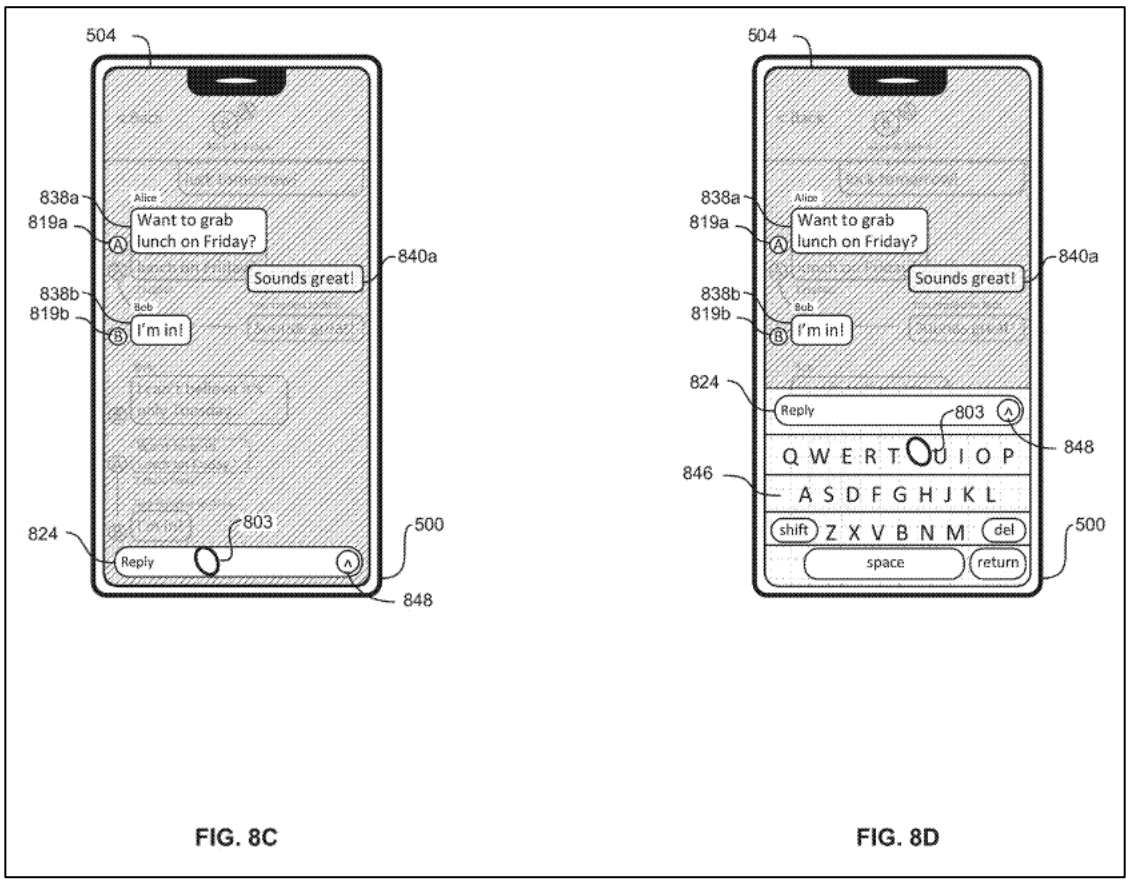
That claim essentially involves selecting and grouping message regions in an electronic chat. Figure 12A30 of Apple’s ’165 Patent, which appears on that patent’s face, depicts how Apple groups the message regions in its claim.



Figures 12A30

Notably, claim 1 of Apple's '165 Patent (reproduced above) does not specify how the message regions are grouped, but the figure above shows simple lines. Unlike the claims of the Asserted Patents, claim 1 of Apple's '165 Patent does not include any limitation discussing changing or modifying the message entry location of the GUI. Apple filed its patent application for the '165 Patent in 2022 and received its issued claims in 2023. In doing so, Apple represented that it believes that this patent is eligible as non-abstract under Section 101. *See* 37 C.F.R. 1.56 (describing "a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section."). Because Apple's later patents with similar, yet less-specific claims are non-abstract (as Apple has admitted via its patent prosecution), the Asserted Patents are not abstract.

26. As another example, Apple filed for U.S. Patent No. 11,743,213 ("Apple's '213 Patent") to Apple on September 25, 2020, more than five years after the application that became the '857 patent, and the PTO issued that patent on August 29, 2023. Apple's '213 Patent involves grouping and displaying messages in a conversation as shown for example in its Figures 8C and 8D below:



27. Claim 1 of Apple's '213 Patent describes using visual indications to group messages in a conversation in the following example limitation: "the first set of one or more representations are displayed in association with one or more visual indications that the one or more second messages are replies to the first message." Apple's '213 Patent at 146:33-38 (claim 1). It also describes a reply user interface, e.g., "displaying, via the display generation component, a replies user interface that is overlaid on the messaging user interface." *Id.* at 146:11-13 (claim

1). By filing for and receiving this claim, Apple represented that it believes that this patent is eligible as non-abstract under Section 101. *See* 37 C.F.R. 1.56. Because Apple's later patents with similar, yet less-specific claims are non-abstract (as Apple has admitted via its patent prosecution), the Asserted Patents are not abstract.

28. Not only are the claims of the Asserted Patent non-abstract, they also satisfy step two of the *Alice* inquiry because they offer something significantly more than any abstract idea to which they may be incorrectly reduced. The satisfaction of step two is supported by at least the following (1) the inventiveness of the claims concerning the capability and functionality of a graphical user interface, e.g., the conventional GUIs ordered conversations chronologically, and a user of that GUI had no way to easily indicate that it was responding to a particular message in that chronological order and the conventional GUI did not change its message entry location such that the user could ensure that a new message being entered would be responding to the correct message; (2) the prosecution history of the Asserted Patents; (3) Apple's later release of the claimed functionality and (4) Apple's own patents.

29. The inventiveness of the claims involves the improved capability and functionality of a graphical user interface via the limitations discussed above in the sections for step one (e.g., the changing/modifying of the message entry location and the use of proximity as the visual cue). The claims provide a specific GUI to solve the problems addressed in the specification and answer the need for a messaging method that allows parties conversing to follow multiple conversations exactly, even where those multiple conversations are intertwined and include questions, prompts, and answers that cross each other chronologically. For example, conventional GUIs ordered conversations chronologically, and a user of that GUI had no way to easily indicate that it was responding to a particular message in that chronological order. More importantly, the conventional

GUI did not change its message entry location such that the user could ensure that a new message being entered would be responding to the correct message. The claims therefore satisfy step two of the *Alice* inquiry.

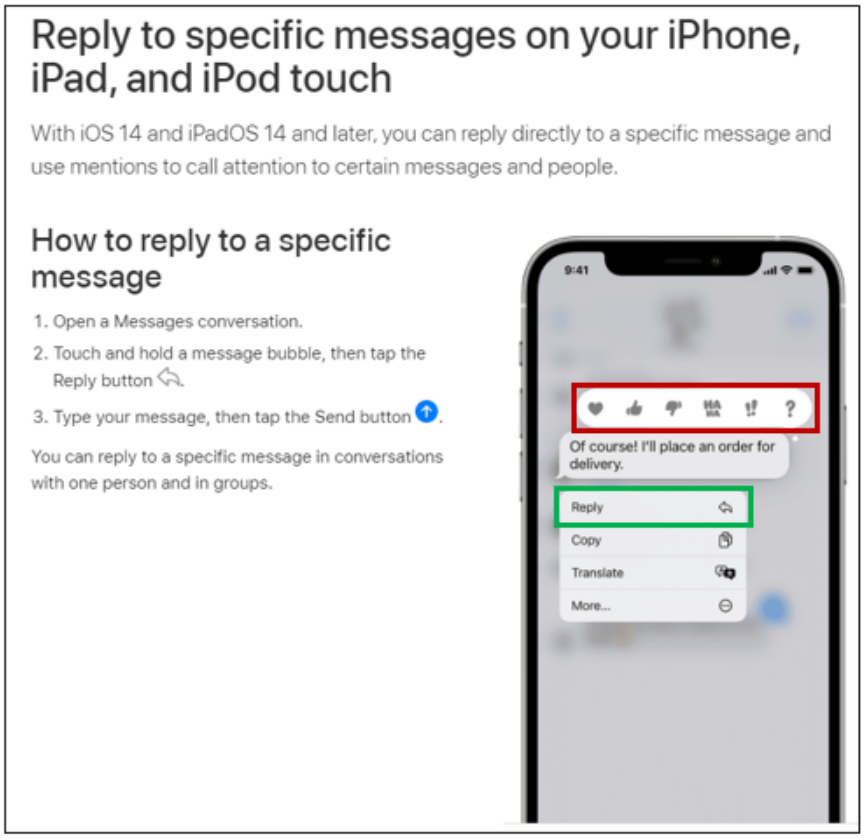
30. As discussed above, the amendments that resulted in the allowance of the Asserted Patents show that its claims involve more than the performance of well-understood, routine, and conventional activities previously known to the industry at the time of the patent. The claims instead include a novel GUI solution that overcame all of the prior art cited during prosecution and conventional GUIs and addressed the "need for a messaging method that allows parties conversing to follow multiple conversations exactly, even where those multiple conversations are intertwined and include questions, prompts, and answers that cross each other chronologically." Ex. A at 1:58-62. Indeed, Apple did not incorporate the infringing functionality (i.e., Tapback and Reply features) into its products, or file patents related to that functionality, until several years after the filing of the applications that issued as the Asserted Patents.

31. The fact that the claims involve more than the performance of well-understood, routine, and conventional activities previously known to the industry at the time of the Asserted Patents is also shown by Apple's own introduction of the infringing features. Apple, widely regarded to be at the forefront of smartphone features, did not introduce the infringing functionality until years after the 2013 priority date of the Asserted Patents.

32. Plaintiff alleges that Apple infringes the Asserted Patents based on Apple's widely used Tapback and Reply features. Apple did not introduce the Tapback or Reply features until years after the 2013 priority date of the Asserted Patents, i.e., Tapback in 2016[2] and Reply in

[2] https://mashable.com/article/what-do-imessage-reactions-tapbacks-mean

2020.[3] An excerpt showing the Tapback feature (red box) and the Reply feature (green box) is shown below.



33. Apple specifically touts its infringing Tapback function as "innovative." Specifically, Apple has stated, "[w]e know that Apple users appreciate having access to **innovative features** like iCloud synching across all their Apple devices, **Tapback** and Memoji, as well as industry-leading privacy and security with end-to-end encryption—all of which make iMessage unique."[4]

---

[3] https://support.apple.com/en-us/HT211303 (showing Reply introduced with iOS 14, which was released in 2020); https://www.apple.com/newsroom/2020/09/ios-14-is-available-today/ (showing iOS 14 "available today" in 2020).
[4] Tim Higgins, *Why Apple's iMessage Is Winning: Teens Dread the Green Text Bubble*, WALL STREET JOURNAL, Jan. 8, 2022, https://www.wsj.com/articles/why-apples-imessage-is-winning-teens-dread-the-green-text-bubble-11641618009 (emphasis added).

34. Apple even uses the Tapback feature to protect the "serious lock-in" (customer retention) that iMessage provides to Apple. As stated in the Wall Street Journal, "Apple got creative in its protection of iMessage's exclusivity. It didn't ban the exchange of traditional text messages with Android users but instead branded those messages with a different color; when an Android user is part of a group chat, the iPhone users see green bubbles rather than blue. It also withheld certain features. There is no dot-dot-dot icon to demonstrate that a non-iPhone user is typing, for example, and an iMessage heart or thumbs-up annotation has long conveyed to Android users as text instead of images."[5]

35. Other articles also tout the Tapback and Reply features. For example, when it was released in 2016, Time Magazine referred to Tapback as a "great new hidden feature in Messages"[6] and listed it among "10 Ways Texting On Your iPhone Is About to Change Forever."[7] The Reply feature has been similarly touted. For example, one article from 2020 stated that "[t]here are a lot of small, meaningful changes to iOS and our lives will be better with them. One such enhancement is the addition of a 'Reply' button in iMessage. The reply button is something all major communication apps are frantically introducing to their interface and with good reason too."[8] And MacRumors discussed the Reply features in 2020 as follows: "[t]he neat thing about inline replies is that it allows you to respond to a particular person's message in the thread, and then view all the responses to the message in either the full group conversation, or separately in a new thread."[9]

---

[5] *Id.* (emphasis added).
[6] https://time.com/4534887/apple-messages-imessage-tips-tricks/
[7] https://time.com/4367056/apple-imessage-wwdc-ios-10-iphone/
[8] https://allthings.how/how-to-reply-to-a-specific-message-in-imessage/
[9] https://www.macrumors.com/how-to/send-inline-replies-ios-messages-app/

36. In addition, the timing and content of Apple's own patents confirm that the Asserted Patents involve more than the performance of well-understood, routine, and conventional activities previously known to the industry at the time of the Asserted Patents. Around the timeframe that Apple released the Tapback and Reply features, it began filing for patents related to them. Apple began filing patents related to Tapback in 2016, including at least the following issued patents: Apple's '165 Patent and U.S. Patent Nos. 9,959,037 (the "'037 Patent"); 11,221,751 (the "'751 Patent"); 11,320,982 (the "'982 Patent"); and 11,954,323 (the "'323 Patent"). For example, Apple's '165 Patent, filed in 2016, states "[t]here is a need for electronic devices with improved methods and interfaces for applying an acknowledgement to a message region in a conversation transcript." Apple's '165 Patent at 2:34-36. As Apple explains, "[s]uch methods and interfaces reduce the number, extent, and/or the nature of the inputs from a user and produce a more efficient human-machine interface." *Id.* at 2:39-42. Indeed, Figure 5B of Apple's '165 Patent depicts one of Apple's embodiments, which closely resembles the Tapback feature.

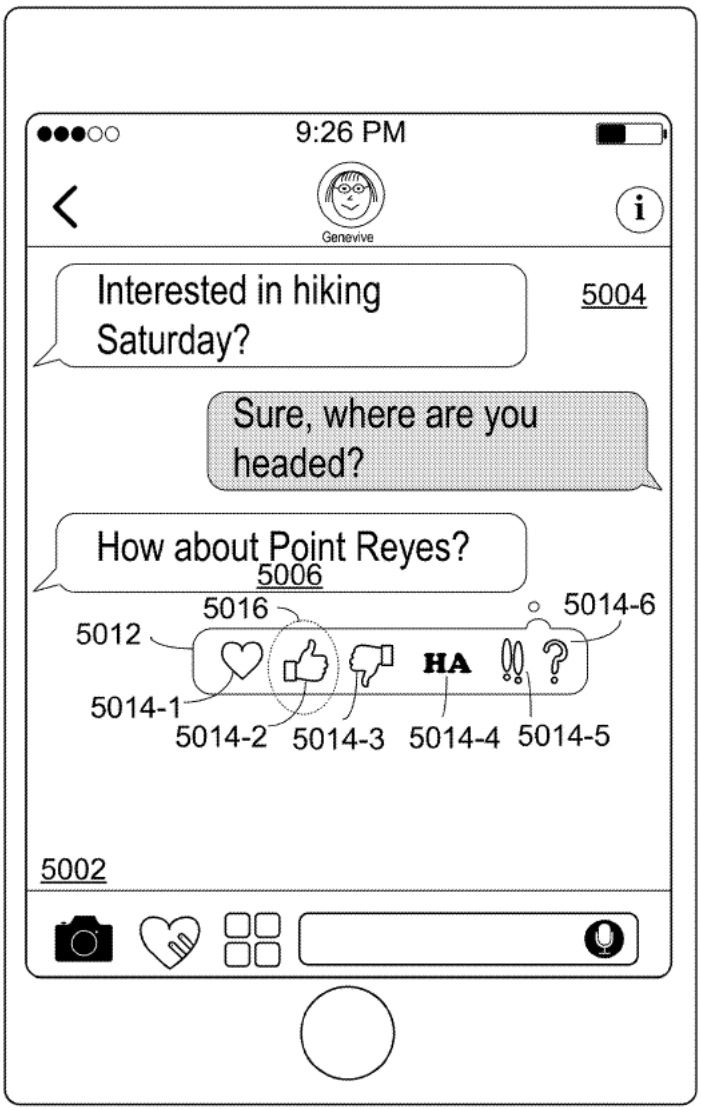


Figure 5B

Apple's '165 Patent describes Figure 5B, further illustrating its correlation to the Tapback feature: "[i]n response to detecting the first input 5010, the electronic device displays an acknowledgement selection affordance 5012, FIG. 5B, at a location in the messaging interface that corresponds to the first message region. In this example, the acknowledgement selection affordance displays a plurality of acknowledgement options: 5014-1 (heart), 5014-2 (thumbs up), 5014-3 (thumbs down), 5014-4 ('HA'), 5014-5 ('!!') and 5014-6 ('?')." 34:59-66.

37. While the universe of Apple's pending patent applications is not public, Apple is continuing to prosecute at least one patent related to the '323, '751, and '037 Patents. *See, e.g.,* U.S. Patent Application No. 18/414,361.

38. Similarly, in conjunction with the introduction of the accused Reply feature, Apple applied for its '213 Patent (discussed in detail above in the section on step one) in 2020 and received it in 2023.

39. Those facts (*e.g.*, Apple not introducing the infringing functionality until years after the relevant filing dates for the Asserted Patents, Apple touting the infringing functionality as "innovative," the infringing functionality protecting iMessage's exclusivity amongst Apple's competitors, Apple filing for its own Patents on the accused functionality years after the relevant filing dates for the Asserted Patents, and third parties praising these features years after the filing of the Asserted Patents) further show that claims of the Asserted Patents involve more than the performance of well-understood, routine, and conventional activities previously known to the industry at the time of the Asserted Patents.

40. For at least these reasons, the claims of the Asserted Patents are directed to patent-eligible subject matter under 35 U.S.C. § 101. They are not directed to an abstract idea, and the technologies covered by the claims comprise systems and/or ordered combinations of features and functions that, at the time of invention, were not, alone or in combination, well-understood, routine, or conventional.

41. CText has complied with the requirements of 35 U.S.C. § 287. As discussed above, CText notified Apple of its infringements by letter dated January 5, 2023.

APPLE'S PRE-SUIT KNOWLEDGE OF ITS INFRINGEMENTS

42. On January 5, 2023, CText sent a letter to Apple, inviting Apple to take a license to the Asserted Patents. *See* Exhibit C. CText's letter included claim charts setting forth how Apple infringes certain claims of the Asserted Patents. Apple acknowledged receipt of CText's letter and claim charts but has refused to take a license to the Asserted Patents.

43. The Accused Products addressed in the Counts below include, but are not limited to, products identified in CText's letter to Apple. Apple's past and continuing sales of the Accused Products (i) willfully infringe the Asserted Patents and (ii) impermissibly usurp the significant benefits of CText's patented technologies without fair compensation.

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 9,246,857)

44. CText incorporates the preceding paragraphs herein by reference.

45. This cause of action arises under the patent laws of the United States, and, in particular, 35 U.S.C. §§ 271, *et seq*.

46. CText is the owner of all substantial rights, title, and interest in and to the '857 Patent, including the right to exclude others and to enforce, sue, and recover damages for past, present, and future infringements.

47. The '857 Patent is valid, enforceable, and was duly and legally issued by the United States Patent and Trademark Office on January 26, 2016, after full and fair examination.

Direct Infringement (35 U.S.C. § 271(a))

48. Apple directly infringes one or more claims of the '857 Patent in this District and elsewhere in New York and the United States.

49. To this end, Apple directly infringes, either by itself or via its agent(s), at least claims 1, 2, 5-7 and 14-16 of the '857 Patent as set forth under 35 U.S.C. § 271(a) by using

(including through testing or demonstration), selling, offering to sell, and/or importing devices with iOS version 10 or later, including, but not limited to, Apple iPhone and iPad devices (collectively, the "Accused Products"). Attached hereto as Exhibit D, and incorporated herein by reference, is an exemplary claim mapping that details how Apple infringes claims 1, 2, 5-7 and 14-16 of the '857 Patent.[10]

Indirect Infringement (Inducement – 35 U.S.C. § 271(b))

50. In addition and/or in the alternative to the direct infringements, Apple indirectly infringes one or more claims of the '857 Patent by knowingly and intentionally inducing others, including its customers and/or other end users, to directly infringe the '857 Patent.

51. At a minimum, Apple has had knowledge of the '857 Patent and its infringement at least since service of the original Complaint in the action. Apple also has knowledge of the '857 Patent and its infringement since receiving correspondence from CText prior to the filing of the original Complaint, alerting Apple to its infringements.

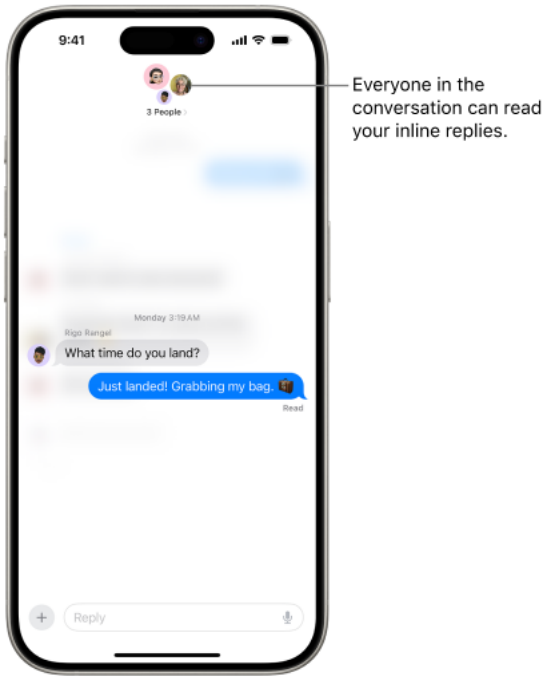
52. Since receiving notice of its infringements, Apple has actively induced, and continues to actively induce, the direct infringements of its customers and/or other end users (e.g., as illustrated by Exhibit D) as set forth under U.S.C. § 271(b). Such inducements have been committed with the knowledge, or with willful blindness to the fact, that the acts induced constitute infringement of the '857 Patent. Indeed, Apple has intended to cause, continues to intend to cause, and has taken, and continues to take, affirmative steps to induce infringement by, among other things, creating and disseminating advertisements and instructive materials that promote the

[10] The claim chart attached hereto as Exhibit D is exemplary and provided only for notice purposes. Exhibit D should not be interpreted as limiting CText's infringement theories or be considered an admission that any claim is representative.

infringing use of the Accused Products, including marketing materials and user manuals (e.g., those available via https://support.apple.com/en-us/docs/iphone), that specifically teach and encourage customers and other end users to use the ’857 Accused Products in an infringing manner. Examples of such instructive materials are shown below:

Reply inline to a specific message

You can respond to a specific message inline. An inline reply quotes the message you're responding to. This keeps a busy conversation organized by clarifying which response relates to which message.



1. Go to the Messages app on your iPhone.
2. Swipe right on the message bubble that you want to reply to.
3. Enter your message, then tap .
4. To return to the main conversation, tap the blurred background.

Touch and hold a message to react with a Tapback, such as a thumbs-up or a heart.

https://support.apple.com/guide/iphone/send-and-reply-to-messages-iph82fb73ba3/18.0/ios/18.0

React with Tapbacks in Messages on iPhone

Tapbacks give you a quick and easy way to respond to a message, such as a heart, a thumbs-up or thumbs-down, laughter, exclamation points, a question mark, and any sticker, Memoji, or emoji.

Note: To send and receive emoji and sticker Tapbacks, you and your recipients must be using iOS 18, iPadOS 18, macOS Sequoia, watchOS 11, visionOS 2, or later.

React with a Tapback

1. Go to the Messages app on your iPhone.
2. Open a conversation.
3. Double-tap (or touch and hold) a message.
4. Swipe left to see suggested emoji and stickers, or tap , then tap to choose any of the following kinds of Tapbacks:
   - *Other emoji:* Tap (jump to other emoji categories with icons to the right of).
   - *Stickers:* Tap .

The Tapback is attached to a specific message in a conversation, and everyone who's part of the conversation can see it.

https://support.apple.com/guide/iphone/react-with-tapbacks-iph018d3c336/18.0/ios/18.0

By providing such instructions and support, Apple knows (and has known), or should know (and should have known), that its actions have actively induced, and continue to actively induce, infringement of the '857 Patent.

Damages

53. CText has been damaged as a result of Apple's infringing conduct described in this Count. Apple is, thus, liable to CText in an amount that adequately compensates it for Apple's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

54. On information and belief, despite having knowledge of the '857 Patent and knowledge that it directly and/or indirectly infringes one or more claims of the '857 Patent, Apple has nevertheless continued its infringing conduct and has disregarded an objectively high likelihood of infringement. Apple's infringing activities relative to the '857 Patent have, thus, been, and continue to be, willful, wanton, and deliberate in disregard of CText's rights with respect to the '857 Patent, justifying enhanced damages under 35 U.S.C. § 284. For example, Apple continues to deliberately infringe the '857 Patent, while having moved the Court that the '857 Patent claims ineligible subject matter under 35 U.S.C. § 101. At the same time, Apple has represented to the USPTO under its duty of candor that its own similar, yet later filed, patents comprise claims that satisfy the eligibility requirements of 35 U.S.C. § 101.

COUNT II

(INFRINGEMENT OF U.S. PATENT NO. 10,009,304)

55. CText incorporates the preceding paragraphs herein by reference.

56. This cause of action arises under the patent laws of the United States, and, in particular, 35 U.S.C. §§ 271, *et seq*.

57. CText is the owner of all substantial rights, title, and interest in and to the '304 Patent, including the right to exclude others and to enforce, sue, and recover damages for past, present, and future infringements.

58. The ’304 Patent is valid, enforceable, and was duly and legally issued by the United States Patent and Trademark Office on June 26, 2018, after full and fair examination.

Direct Infringement (35 U.S.C. § 271(a))

59. Apple directly infringes one or more claims of the ’304 Patent in this District and elsewhere in New York and the United States.

60. To this end, Apple directly infringes, either by itself or via its agent(s), at least claims 1, 2, 6, 7, 11, 12, 14, and 15 of the ’304 Patent as set forth under 35 U.S.C. § 271(a) by using (including through testing or demonstration), selling, offering to sell, and/or importing devices with iOS version 10 or later, including, but not limited to, Apple iPhone and iPad devices (collectively, the “Accused Products”). Attached hereto as Exhibit E, and incorporated herein by reference, is an exemplary claim mapping that details how Apple infringes claims 1, 2, 6, 7, 11, 12, 14, and 15 of the ’304 Patent.[11]

Indirect Infringement (Inducement – 35 U.S.C. § 271(b))

61. In addition and/or in the alternative to the direct infringements, Apple indirectly infringes one or more claims of the ’304 Patent by knowingly and intentionally inducing others, including its customers and/or other end users, to directly infringe the ’304 Patent.

62. At a minimum, Apple has had knowledge of the ’304 Patent and its infringement at least since service of the original Complaint in the action. Apple also has knowledge of the ’304 Patent and its infringement since receiving correspondence from CText prior to the filing of the original Complaint, alerting Apple to its infringements.

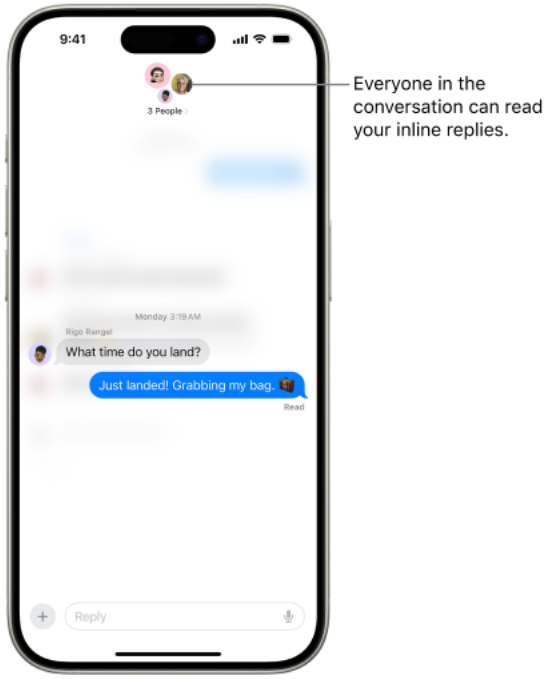
---

[11] The claim chart attached hereto as Exhibit E is exemplary and provided only for notice purposes. Exhibit E should not be interpreted as limiting CText’s infringement theories or be considered an admission that any claim is representative.

63. Since receiving notice of its infringements, Apple has actively induced, and continues to actively induce, the direct infringements of its customers and/or other end users (e.g., as illustrated by Exhibit E) as set forth under U.S.C. § 271(b). Such inducements have been committed with the knowledge, or with willful blindness to the fact, that the acts induced constitute infringement of the ’304 Patent. Indeed, Apple has intended to cause, continues to intend to cause, and has taken, and continues to take, affirmative steps to induce infringement by, among other things, creating and disseminating advertisements and instructive materials that promote the infringing use of the Accused Products, including marketing materials and user manuals (e.g., those available via https://support.apple.com/en-us/docs/iphone), that specifically teach and encourage customers and other end users to use the ’304 Accused Products in an infringing manner. Examples of such instructive materials are shown below:

Reply inline to a specific message

You can respond to a specific message inline. An inline reply quotes the message you're responding to. This keeps a busy conversation organized by clarifying which response relates to which message.



1. Go to the Messages app on your iPhone.
2. Swipe right on the message bubble that you want to reply to.
3. Enter your message, then tap .
4. To return to the main conversation, tap the blurred background.

Touch and hold a message to react with a Tapback, such as a thumbs-up or a heart.

https://support.apple.com/guide/iphone/send-and-reply-to-messages-iph82fb73ba3/18.0/ios/18.0

React with Tapbacks in Messages on iPhone

Tapbacks give you a quick and easy way to respond to a message, such as a heart, a thumbs-up or thumbs-down, laughter, exclamation points, a question mark, and any sticker, Memoji, or emoji.

Note: To send and receive emoji and sticker Tapbacks, you and your recipients must be using iOS 18, iPadOS 18, macOS Sequoia, watchOS 11, visionOS 2, or later.

React with a Tapback

1. Go to the Messages app on your iPhone.
2. Open a conversation.
3. Double-tap (or touch and hold) a message.
4. Swipe left to see suggested emoji and stickers, or tap , then tap to choose any of the following kinds of Tapbacks:
   - *Other emoji:* Tap (jump to other emoji categories with icons to the right of).
   - *Stickers:* Tap .

The Tapback is attached to a specific message in a conversation, and everyone who's part of the conversation can see it.

https://support.apple.com/guide/iphone/react-with-tapbacks-iph018d3c336/18.0/ios/18.0

By providing such instructions and support, Apple knows (and has known), or should know (and should have known), that its actions have actively induced, and continue to actively induce, infringement of the '304 Patent.

<u>Damages</u>

64. CText has been damaged as a result of Apple's infringing conduct described in this Count. Apple is, thus, liable to CText in an amount that adequately compensates it for Apple's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

65. On information and belief, despite having knowledge of the '304 Patent and knowledge that it directly and/or indirectly infringes one or more claims of the '304 Patent, Apple has nevertheless continued its infringing conduct and has disregarded an objectively high likelihood of infringement. Apple's infringing activities relative to the '304 Patent have, thus, been, and continue to be, willful, wanton, and deliberate in disregard of CText's rights with respect to the '304 Patent, justifying enhanced damages under 35 U.S.C. § 284. For example, Apple continues to deliberately infringe the '304 Patent, while having moved the Court that the '304 Patent claims ineligible subject matter under 35 U.S.C. § 101. At the same time, Apple has represented to the USPTO under its duty of candor that its own similar, yet later filed, patents comprise claims that satisfy the eligibility requirements of 35 U.S.C. § 101.

CONCLUSION

66. CText is entitled to recover from Apple the damages sustained by CText as a result of Apple's wrongful acts and willful infringements in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court.

67. CText has incurred and will incur attorneys' fees, costs, and expenses in the prosecution of this action. The circumstances of this dispute may give rise to an exceptional case within the meaning of 35 U.S.C. § 285, and, in such case, CText is entitled to recover its reasonable and necessary attorneys' fees, costs, and expenses.

JURY DEMAND

68. CText hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

69. CText respectfully requests that the Court find in its favor and against Apple, and that the Court grant CText the following relief:

(i) Judgment that one or more claims of the Asserted Patents have been infringed, either literally and/or under the doctrine of equivalents, by Apple;

(ii) Judgment that one or more claims of the Asserted Patents have been willfully infringed, either literally and/or under the doctrine of equivalents, by Apple;

(iii) Judgment that Apple account for and pay to CText all damages and costs incurred by CText because of Apple's infringements and other conduct complained of herein, including an accounting for any sales or damages not presented at trial;

(iv) Judgment that Apple account for and pay to CText a reasonable, ongoing, post-judgment royalty because of Apple's infringements, including continuing infringing activities, and other conduct complained of herein;

(v) Judgment that CText be granted pre-judgment and post-judgment interest on the damages caused by Apple's infringements and other conduct complained of herein;

(vi) Judgment that this case is exceptional under the provisions of 35 U.S.C. § 285 and award enhanced damages; and

(vii) Such other and further relief as the Court deems just and equitable.

Dated: March 3, 2025

STAMOULIS & WEINBLATT LLC

/s/ Richard C. Weinblatt

Stamatios Stamoulis (admitted S.D.N.Y.)
Richard C. Weinblatt (RW5080)
800 N. West Street, Third Floor
Wilmington, DE 19801
Telephone: (302) 999-1540
Facsimile: (302) 762-1688
stamoulis@swdelaw.com
weinblatt@swdelaw.com

Attorneys for Plaintiff
CText IP LLC

CERTIFICATE OF SERVICE

I hereby certify that on March 3, 2025, I electronically filed the above document(s) with the Clerk of Court using CM/ECF which will send electronic notification of such filing(s) to all registered counsel.

/s/ Richard C. Weinblatt
Richard C. Weinblatt (RW5080)