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September 30, 2025

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Re: Case No. 4-25-cv-00230; *Wapp Tech Limited Partnership et al. v. Apple Inc., et al.*;
In the United States District Court for the Eastern District of Texas, Sherman
Division.

Counsel,

I write on behalf of Wapp Tech Limited Partnership and Wapp Tech Corp. (collectively, “Wapp”) in the above-referenced case. As Capital One, N.A. and Capital One Services, LLC (hereinafter, “Capital One” or “Defendants”) are aware, the Order Governing Proceedings in this case requires that Defendants produce, “without further request or order, all information required by the Patent Rules” (Dkt. 56 at G) as well as “all documents, electronically stored information, and tangible things that are in the possession, custody, or control of [Defendants] relevant to the claims or defenses of any party” (Dkt. 56, at H(4)) in this case. To assist Defendants in complying with their disclosure obligations, Wapp sets forth below a non-exhaustive list of categories of documents it deems to be relevant to this case.¹ In addition to the documents listed below, Wapp expects that Defendants will produce any other documents and things required by the Order Governing Proceedings, the Scheduling Order, and the applicable Patent Rules. Moreover, the inclusion or exclusion of any category or description should not be used as basis for withholding otherwise relevant documents.

To the extent that any relevant documents are subject to third-party confidentiality obligations, Wapp requests that Defendants promptly take all necessary steps to obtain any required third-party consent to produce the documents.

¹ The definitions provided in Attachment A apply to the categories of documents identified in this letter.

I. Capital One General Information

1. Since March 2019, Documents sufficient to show Your past and present organizational structure, including the names of Your officers, managers, directors, and their positions and responsibilities.
2. All Documents, Communications, and Things referring or Relating to this Action, including but not limited to, the Mobile Application Development and Testing Instrumentalities and the Mobile Applications.
3. All Documents, Communications, and Things that constitute, refer to, or Relate to Your patent practices, policies, and procedures, including but not limited to practices, policies, and procedures with respect to reviewing, acquiring, securing, clearing, avoiding, or enforcing patents or any other intellectual property assets or rights.
4. Since March 2019, all of Your annual reports, annual financial statements, quarterly reports, quarterly financial statements, income statements, balance sheets, financial filings, statements of operations, cash flow statements, and other earnings or financial statements, whether audited or unaudited and whether for external or internal purposes.
5. Since March 2019, all Documents, Communications, and Things that refer or Relate to Your financial condition, including Documents, Communications, and Things sufficient to show, on a quarterly basis, Your revenues, expenses, and cash flow.
6. Since March 2019, all Documents, Communications, and Things that refer or Relate to Your market share in any market for the Mobile Applications, including but not limited to Capital One Mobile.
7. Documents sufficient to show Your Document retention and/or destruction policies and procedures including any such policies regarding any Mobile Application Development and Testing Instrumentalities.
8. All Documents, Communications, and Things that Relate to Capital One's mobile application development and testing practices, including development and testing best practices, guides, and standards.
9. All Communications with any entities that create, maintain, or distribute the Mobile Application Development and Testing Instrumentalities (including Apple, Inc., Google LLC, and any of their parents, subsidiaries, affiliates, officers, directors, employees, representatives, agents, and all persons acting on its behalf).

II. Capital One's Pleadings/Defenses

10. All Documents, Communications, and Things that support, contradict, refer or Relate to Your allegations or defenses in this Action, including the allegations in Your Answer to the Complaint.
11. All Documents, Communications, and Things reviewed, referenced, or relied upon in preparing responses to any interrogatory or response to requests for admission served in this Action.

III. Wapp General Information

12. All Documents, Communications, and Things that refer or Relate to the inventor of the Patents-in-Suit or Related Patents.
13. All Documents, Communications, and Things that refer to or Relate to Wapp or any Person or entity relating to Wapp.

IV. Patents-in-Suit General Information

14. All Documents, Communications, and Things that refer or Relate to any of the Patents-in-Suit, Related Patents, the inventions described in the Patents-in-Suit, or this Action including any internal Capital One Documents, whether formal or informal, concerning this action or the Patents-in-Suit.
15. All Documents, Communications, and Things that refer or Relate to the potential value, validity,² alleged invalidity, infringement, alleged non-infringement, enforceability, alleged unenforceability, or claim interpretation of the Patents-in-Suit or Related Patents.
16. All Documents, Communications, and Things that You contend evidence the level of ordinary skill in the art pertaining to the inventions claimed in the Patents-in-Suit.

V. Infringement

17. All Documents, Communications, and Things that refer or Relate to the Mobile Application Development and Testing Instrumentalities.
18. All Documents, Communications, and Things that Relate to Capital One's use of the features of the Mobile Application Development and Testing Instrumentalities identified in Wapp's infringement contentions and any amendments thereto.
19. All Communications with consultants or Employees who have, or had, any involvement in using, inspecting, analyzing, or testing any of the Mobile Application Development and Testing Instrumentalities to determine whether or not such products are covered by any of the Patents-in-Suit or Related Patents.
20. All Documents, Communications, and Things that show how You use the Mobile Application Development and Testing Instrumentalities, and to the extent You contend that the manner in which You use the Mobile Application Development and Testing Instrumentalities has changed over time, all Documents, Communications, and Things sufficient to show how Your use of the Mobile Application Development and Testing Instrumentalities has changed over time.
21. All Documents, Communications, and Things that refer or Relate to the extent to which You used the Mobile Application Development and Testing Instrumentalities from March

² This includes anything Related to secondary considerations of non-obviousness, long-felt need, commercial success, copying by others, praise, criticism, disadvantage, or discussion of the significance of any inventions claimed in the Patents-in-Suit, or of any process, method, or device that embodies or uses any such inventions including, but not limited to, the Mobile Application Development and Testing Instrumentalities.

- of 2019 to present including, but not limited to, the number and identity of users who have had access to and/or used the Mobile Application Development and Testing Instrumentalities, and the number of devices upon which the Mobile Application Development and Testing Instrumentalities are installed.
22. All Documents, Communications, and Things that Identify the features of the Mobile Application Development and Testing Instrumentalities used by You including, but not limited, all Documents and Things that show which parts of the Mobile Application Development and Testing Instrumentalities were used in developing the Mobile Applications and which users used those features and when.
 23. All Documents, Communications, and Things that You contend support a conclusion that You do not infringe any claim of any of the Patents-in-Suit or Related Patents including, but not limited to, an identification of the specific claim element You contend is not satisfied and Documents sufficient to show why that claim element is not satisfied.
 24. All Documents, Communications, and Things that constitute, refer to, or Relate to any study, evaluation, opinion, assertion, or analysis of whether any Accused Product is or is not covered by any claim of any of the Patents-in-Suit or Related Patents.
 25. All Documents, Communications, and Things that Relate to Capital One's use of Network Simulation, including use of software (including but not limited to Apple's Network Link Conditioner and Google's Android Virtual Devices) that simulates bandwidth availability, packet loss, packet delay, or any other network characteristics.
 26. All Documents, Communications, and Things that Relate to Capital One's use of Device Simulation, including use of Apple's Xcode Simulator and Android Studio's Android Emulator.
 27. Source code for the Mobile Applications.
 28. Source code for testing the Mobile Applications.
 29. All Documents, Communications, and Things that Relate to Capital One's documentation or tracking of Mobile Application defects, including such things as bug reports and support tickets.
 30. All Documents, Communications, and Things that Relate to measuring the performance of Mobile Applications developed by Capital One, including such things as CPU usage, memory usage, network or bandwidth usage, disk i/o usage, energy usage, thermal impact, or GPU usage.
 31. All Documents, Communications, and Things that Relate to Capital One's use of Resource Displays, including those supported in Apple's Xcode and Google's Android Studio.
 32. All Documents, Communications, and Things that Relate to Capital One's use of "Function or Code Identification" for any resource, including CPU usage, memory usage, network or bandwidth usage, disk i/o usage, power usage, thermal impact, or GPU usage.
 33. All Documents, Communications, and Things that Relate to testing the impact of phone calls, SMS messages, and other similar events on the functioning of Mobile Applications developed by Capital One.

34. All Documents, Communications, and Things that Relate to automated testing of Mobile Applications developed by Capital One, including such things as unit tests, user interface tests, system integration tests, and network performance tests.
35. All Documents, Communications, and Things that Relate to the installation and updating of the Mobile Application Development and Testing Instrumentalities.

VI. Damages

36. All Documents, Communications, and Things that constitute, refer to, or Relate to any contract, agreement, or license between You and any third party (including, but not limited to, Apple or Google) Relating to Your use of the Mobile Application Development and Testing Instrumentalities.
37. All Documents, Communications, and Things that refer or Relate to any payments, monetary transfers, or consideration exchanged between You and any third Party for Your use of the Mobile Application Development and Testing Instrumentalities. This includes any payments, monetary transfers, or consideration exchanged on your behalf.
38. All Documents, Communications, and Things that refer or Relate to any and all costs incurred by You in planning, creating, developing, deploying, and testing of Mobile Application Development and Testing Instrumentalities, and each of the Mobile Applications.
39. All Documents, Communications, and Things that Identify the dates when Defendants first used the Mobile Application Development and Testing Instrumentalities in the U.S.
40. All Documents, Communications, and Things that constitute, refer or Relate to Your decision to use the Mobile Application Development and Testing Instrumentalities. This would include, inter alia, business plans, consumer surveys, studies, third-party research, presentations regarding the Mobile Application Development and Testing Instrumentalities, and evaluations of the Mobile Application Development and Testing Instrumentalities versus alternatives (to the extent You contend such other alternatives are available).
41. All Documents, Communications, and Things that constitute, refer or Relate to the costs and benefits measured, quantified, and/or expected by You related to Mobile Application Development and Testing Instrumentalities and the Mobile Applications. This would include, inter alia, business plans, consumer surveys, studies, third-party research, presentations regarding the Mobile Application Development and Testing Instrumentalities and the Mobile Applications, and evaluations of the Mobile Application Development and Testing Instrumentalities and the Mobile Applications.
42. Documents relating to any planned, potential or implemented design-around of any claim of any Patent-in-Suit by any person or entity, including any business plans and information regarding the availability of any such design-around to you and any and all costs to design, develop, implement, create, and/or maintain such design-around.

43. Documents sufficient to show when You first became aware of the Patents-in-Suit or Related Patents.
44. All Documents, Communications, and Things that constitute, refer or Relate to use of each of the Mobile Applications, including the number of downloads, number of users, number of unique users per year, number of logins per year, number of transactions (including, but not limited to, number of mobile checks deposited, balance checks, balance transfers, and peer-to-peer payments and transfers, along with the transaction amount, if any, the cost to You to process the transaction, and the difference in cost to You to process the transaction via each of the Mobile Applications versus via bank teller or ATM, and the revenues and profits generated by you in connection with any such transactions) and any user reviews, as well as expectations and forecasts of the foregoing.
45. All Documents, Communications, and Things that refer or Relate to any benefits, advantages, improvements or efficiencies provided by, or derived from, the Mobile Application Development and Testing Instrumentalities or the Mobile Applications, including i) any measured or anticipated effect on customer retention, customer adoption and usage of mobile banking and the Mobile Applications, consumer profitability, consumer satisfaction, ii) internal or external studies and analysis of consumer preferences, usage trends, and forecasted future adoption of mobile banking, online banking, ATM banking, and teller/in-person banking, iii) any measured or anticipated effect on sales of bank products including home loans, car loans, credit cards, checking and savings account openings, and investment account openings, iv) any measured or anticipated effect on attempted bank fraud and fraud losses, including duplicate check fraud and counterfeit check fraud, and v) any measured or anticipated effect on the number of checks deposits received by You, average balance amount, or number of customer accounts held.
46. All Documents, Communications, and Things that refer or Relate to Your operation of physical bank branches including the number of branches operated, opened, and closed each year and the costs associated with opening, closing, and operating Your physical bank branches each year.
47. All Documents, Communications, and Things that constitute, refer to, or Relate to any efforts to license, requests to license, or other agreements relating to the Patents-in-Suit, Related Patents, any portfolio containing any of the Patents-in-Suit or Related Patents, or the inventions of the Patents-in-Suit or Related Patents, whether or not consummated.
48. All Documents, Communications, and Things that constitute, refer to, or Relate to benefits You receive from any Mobile Applications (either direct or indirect). This includes, but is not limited to, Documents sufficient to show unit sales, revenue, cost savings, and profit on a month-by-month basis, as well as valuation of the application.
49. All Documents, Communications, and Things that constitute, refer to, or Relate to the appropriate measure of damages to compensate Wapp for Your infringement of any of the Patents-in-Suit including, but not limited to, any Documents reflecting risk analysis, valuation of each of the Mobile Applications, and the value derived by You from using the Mobile Application Development and Testing Instrumentalities.

50. All Documents, Communications, and Things that constitute, refer to, or Relate to the value or valuation of the Patents-in-Suit, Related Patents, or any of the inventions of the Patents-in-Suit or Related Patents.
51. All Documents, Communications, and Things that constitute, refer to, or Relate to any analysis or calculation of the amount of damages in this case.
52. All Documents, Communications, and Things that refer or Relate to any calculation of the reasonable amount of royalty in this case.
53. All Documents, Communications, and Things that refer or Relate to any established royalty rate, or any royalty or royalty rate calculated, proposed, considered, charged, or collected by You in connection with any patent covering technology that is comparable to the technology of the Patents-in-Suit.
54. All Documents, Communications, and Things that refer or Relate to any license or agreement entered into by You Related to use of the technology of the Patents-in-Suit, including any licenses that You contend are relevant to the determination of damages in this case, including, but not limited to, any licenses that You contend are comparable licenses.
55. All Documents, Communications, and Things that constitute, refer to, or Relate to any license that You contend is comparable to a license that You and Wapp would have agreed to in a hypothetical negotiation in this case.
56. All Documents, Communications, and Things that relate to customer surveys, focus groups, studies, feedback forms, app reviews, or other information about customer attitudes related to the Mobile Applications, including any documents that relate to the effect on customers of Mobile Application speed, latency, load time, error messages, or other metrics related to Mobile Application performance and/or behavior.
57. All Documents, Communications, and Things that relate to Mobile Application customer retention, attrition, and/or use. This includes, for example, data showing Mobile Application downloads, Mobile Application deletions, Mobile Application use (including use of specific Mobile Application features), Mobile Application sign-ons, customer satisfaction, and the number and types of products and/or services sold or advertised through the Mobile Applications.
58. All Documents, Communications, and Things that relate to Mobile Application customer rewards, incentives, or other benefits that You offer to customers to encourage them to download or use the Mobile Applications, including the costs, revenues, and profits associated with such benefits, and data showing how such benefits impact customer use or retention of the Mobile Applications.

Please let us know if Defendants contend that they do not have documents responsive to a particular category identified above within their possession, custody, or control. Additionally, to the extent Defendants contend that any document identified above is not relevant to this litigation, or that any responsive document is protected by attorney-client privilege, work product

protection, or any other available privilege or protection, please let us know promptly so that we may evaluate your position and proceed accordingly.

Sincerely,

/s/ Leslie V. Payne

Leslie V. Payne

Attachment A – Definitions

1. As used herein, the term “**Communication**” means any transmission of information from one person to another, including, without limitation, by personal meeting, telephone, facsimile, exchange of electronically stored information (as defined below), memorandum, letter, notes and teleconference.
2. As used herein, the term “**Document**” shall be interpreted in the most comprehensive and inclusive sense in light of Fed. R. Civ. P. 34 and includes the original and any non-identical copies (whether non-identical because of notes, comments, annotations, marks, transmission notations, highlighting, or any other reason) of any written, typed, printed, electronically stored, or otherwise recorded matter, however produced or reproduced, of every kind and description, in whatever form (e.g., draft and final version), that are in Defendant’s actual or constructive possession, custody, care, or control, including but not limited to all writings, devices, components, computer data, computer generated documents, computer disks or data tapes, **electronically stored information** (as defined below), or any other writings or tangible things which constitute or contain matters within the scope of Rule 34 of the Federal Rules of Civil Procedure or Rule 1001 of the Federal Rules of Evidence. The documents requested include all attachments to the specifically described documents and all other material that originally accompanied them.
3. As used herein, the term “**electronically stored information**” shall be interpreted in the most comprehensive and inclusive sense in light of the Federal Rules of Civil Procedure but also in a way that is consistent with any ESI Order (and any modifications thereto) entered in this case and includes any original and any non-identical copies (whether non-identical because of notes, comments, annotations, marks, transmission notations, highlighting, or any other reason), of information stored by electronic means, including but not limited to: electronic, mechanical, magnetic, digital, or other programs (whether private, commercial, or work- in-progress); programming notes or instructions; activity listings of electronic mail receipts or transmittals; output resulting from the use of any software program, including word processing documents, spreadsheets, database files, charts, graphs and outlines; presentation documents; animations; images; audio, video, and audiovisual recordings; voice mail; electronic mail or “e-mail” (consistent with the ESI Order); internet or intranet data; PDF files; PRF files; batch files; ASCII files; crosswalks; code keys; pull down tables; logs; file layouts; and miscellaneous files or file fragments, regardless of the media on which such information resides and regardless of whether said information consists of any active file, backup file, deleted file, or file fragment. “Electronically stored information” also includes, without limitation, any items that are stored, or can be restored, on databases, networks, laptops, personal computers, linkers or compilers, internal or external websites, personal digital assistants, handheld wireless devices, mobile telephones, audio systems (including voicemail), computer systems’ memory or memories, hard disks, floppy disks, zip drives, flash drives, CD-ROM discs, compact discs, DVD-ROM discs, digital video discs, digital versatile discs,

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optical discs, Bernoulli Boxes or their equivalents, magnetic tapes, microfiche, punched cards, punched tape, cartridges, computer chips (including, without limitation, EPROM, PROM, ROM, or RAM of any kind), servers, archives, back up or disaster recovery systems, or in any other vehicle for electronic or digital data storage or transmittal.

4. As used herein, the term “**Thing**” shall be interpreted in the most comprehensive and inclusive sense in light of Fed. R. Civ. P. 34 and means any physical article responsive to the request that is not a document and that is in the possession, custody, or control of a Defendant.
5. “**Identify**,” when used with reference to:
 - a. an individual person, means to state his or her full name, present or last known employer, job title, general job description, present or last known residence addresses and telephone number, and present or last known business addresses and telephone number;
 - b. a business entity, means to state the full name and address of the entity and the names and positions of the individual or individuals connected with such entity who have knowledge of the information requested.
 - c. a document, means to identify the document by bates number, or if it is not bates numbered, to state the type of document (letter, memorandum, email, etc.), its dates, author(s) or originator(s), addressee(s), all individuals who received copies of the document, the identity of persons known or believed by you to have present possession, custody or control thereof, and a brief description of the subject matter and present location. The foregoing is unnecessary if the document is being produced in lieu of the answer to an Interrogatory. If the document has already been produced, “identify” means to provide the production number of the document.
 - d. a product, Software, service, system or method means to specify a part number, trade name, catalog number, version number, and any other designation used to refer to the product, Software, service, system or method.
6. As used herein, the term “**Employee**” means any director, trustee, officer, employee, agent, consultant, partner, corporate parent, subsidiary, affiliate, or servant of the designated entity, whether active or retired, full-time or part-time, current or former, and compensated or not.
7. As used herein, the term “**Representative**” means any consultant, expert, attorney, contractor, or other person engaged by the designated entity to perform some task or assignment for the entity.
8. As used herein, the terms “**You**,” “**Your**,” and “**Yours**,” or “**Capital One**” refer to Capital One, N.A. and/or Capital One Services, LLC; their parents, subsidiaries, and affiliates; and their officers, directors, employees, representatives, agents, and all persons acting on their behalf.
9. As used herein, the terms “**Plaintiffs**” and “**Wapp**” mean Wapp Tech Limited Partnership and Wapp Tech Corp in the above-styled civil action and its officers, directors, employees, representatives, and agents.

10. As used herein, the term “**Software**” includes firmware, source code, object code, or other application, program, procedure, instructions or algorithm for execution by a computer, processor, microcontroller, or integrated circuit of any kind.
11. “**Source Code**” means the human-readable form of a computer program written in high level or assembly language and includes html files; xml files; source code listings; compiler and/or assembler output listings for such source code; source code listings for macros or “includes” (both executable and mapping) listings used in such source code; job control language files; build files, build configurations, and/or other files required to create an executable version of a program, including user interface components; panels; screen definitions and help text; and c-lists.
12. “**Version**” means a set of Software code (source or object) that reflects a specific form or variation of the code and encompassing a material change to the previous version, including but not limited to unique releases, release notes, revisions, updates, batches, fixes, etc.
13. As used herein, the terms “**and**” as well as “**or**” shall be construed either disjunctively or conjunctively and references shall be construed either as singular or plural as necessary to bring within the scope of these requests any information or documents and electronically stored information that might otherwise by construed to be outside their scope.
14. As used herein, the term “**including**” means “including but not limited to.”
15. As used herein, the term “**all**” means all or any, and the term “**any**” means all or any.
16. As used herein, the terms “**Person**” and “**Entity**” mean any natural person and any cognizable entity, including, without limitation, corporations, proprietorships, partnerships, joint ventures, joint marketing entities, businesses, limited liability companies, consortiums, clubs, associations, foundations, governmental agencies or instrumentalities, societies, orders, groups acting in concert, or any person acting in a representative capacity.
17. The “**Asserted Patents**” or “**Patents-in-Suit**” as used herein means U.S. Patent Nos. 8,924,192, 9,298,864, 9,971,678, 10,353,811, and 10,691,579 and any additional patents that are added to this case. The term “Patents-in-Suit” includes each patent individually and the patents collectively.
18. “**Related Patents**” shall include, whether or not abandoned and whether or not issued, (a) any patent or patent application that claims priority to the Patents-in-Suit, (b) any patent or patent application that claims priority from any patent or patent application to which the Patents-in-Suit claims priority, (c) any patent or patent application on which the Patents- in-Suit depends for priority, (d) any patent or patent application identified in the Related U.S. Application Data for the Patents-in-Suit, (e) any patent or patent application that claims priority from any patent or patent application identified in the Related U.S. Application Data for the Patents-in-Suit, (f) any reissue, reexamination, or inter partes review of any of the aforementioned patents or patent applications, and (g) any foreign counterpart patent or foreign counterpart application of any of the aforementioned patents or patent applications (a foreign counterpart patent and foreign counterpart application shall include any foreign patent or foreign patent application in which a claim for priority

has been made in either a U.S. application or a foreign application based on the other, or that the disclosures of the U.S. and foreign patent applications are substantively identical).

19. As used herein, “**Asserted Claim**” refers to each of the claims of Plaintiffs’ Patents-in-Suit that Plaintiffs contend are infringed by Capital One, including those claims identified in Plaintiffs’ complaint, forthcoming infringement contentions and any permitted amendments thereto.
20. As used herein, “**Mobile Application Development and Testing Instrumentalities**” means all mobile application development and testing tools You have identified in response to Interrogatory No. 2 and all Accused Instrumentalities identified in Wapp’s forthcoming infringement contentions and any permitted amendments thereto.
21. As used herein, “**Mobile Applications**” means every mobile application You have identified in response to Interrogatory No. 1.
22. As used herein, “**Network Simulation**” means any simulation and/or emulation of any characteristics of a wireless network during the development or testing of a mobile application, including but not limited to simulation and/or emulation of bandwidth, packet loss, and/or latency.
23. As used herein, “**Device Simulation**” means any simulation and/or emulation of any characteristics of a mobile device during the development or testing of a mobile application, including but not limited to simulation and/or emulation of screen size, screen resolution, screen rotation, CPU, Memory, Disk Storage, the presence or absence of a button, GPU capabilities, GPS capabilities, camera capabilities, energy usage or availability, thermal usage or capacity, or biometric capabilities.
24. As used herein, “**Resource Display**” means any display of any resource of a mobile device during the development or testing of a mobile application, including but not limited to CPU usage, memory usage, disk usage, energy usage, GPU usage, or network usage.
25. As used herein, “**Function or Code Identification**” means identifying a function or portion of source code of a mobile application that corresponds to a resource shown in the Resource Display.
26. As used herein, “**Relate**,” “**Related**,” or “**Relating**” to any given subject means, without limitation, identifying, describing, discussing, concerning, assessing, stating, reflecting, constituting, containing, embodying, tending to support or refute, or referring directly or indirectly to, in any way, the particular subject matter identified.