

WAPP TECH LIMITED PARTNERSHIP and §
WAPP TECH CORP., §
§
Plaintiffs, § Case No. 4:25-cv-00230
§
v. §
§ JURY TRIAL DEMANDED
§
APPLE INC., CAPITAL ONE, N.A., §
CAPITAL ONE SERVICES, LLC, FROST §
BANK, and CULLEN/FROST BANKERS, §
INC., §
§
Defendants.

Pursuant to Fed. R. Civ. P. 33, Plaintiffs Wapp Tech Limited Partnership and Wapp Tech Corp (collectively, “Wapp”) serve their First Set of Interrogatories on Capital One, N.A. and Capital One Services, LLC (collectively, “Capital One”). Pursuant to Rule 33(b)(2), Capital One shall respond to these interrogatories within 30 days of service.

When used in these Interrogatories, the following terms shall have the following meanings:

Wapp EX2040
Capital One v. Wapp, IPR2025-01325
Page 1 of 10

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.

2. 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.

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” (subject to any 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.

4. “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, 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.

5. 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.

6. “State in detail” means to give a complete and full description concerning the matter about which inquiry is made, including the full name, address and telephone number of persons involved, if appropriate, along with the dates, times, places, amounts, acts, logic, and other particulars that make the answers to the interrogatory fair and meaningful.

7. “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.
8. 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.
9. 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.

10. 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.

11. 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.

12. As used herein, the term “software” includes firmware, source code, object code, or other application, program, procedure, instructions or algorithms for execution by a computer, processor, microcontroller, or integrated circuit of any kind.

13. “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; 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.

14. “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, revisions, updates, batches, fixes, etc.

15. 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 be construed to be outside their scope.

16. As used herein, the term “including” means “including but not limited to.”

17. As used herein, the term “all” means all or any, and the term “any” means all or any.

18. 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.

19. Masculine pronouns shall not connote particular gender but shall be taken to mean masculine, feminine, or neuter gender, as the case may be.

20. “Date” means the exact day, month, and year, if ascertainable, or, if not, the best approximation thereof (including relationship to other events).

21. The “’192 patent” as used herein means United States Patent No. 8,924,192.

22. The “’864 patent” as used herein means United States Patent No. 9,298,864.

23. The “’678 patent” as used herein means United States Patent No. 9,971,678.

24. The “’811 patent” as used herein means United States Patent No. 10,353,811.

25. The “’579 patent” as used herein means United States Patent No. 10,691,579.

26. The “Asserted Patents” as used herein means the ’192 patent, the ’864 patent, the ’678 patent, the ’811 patent, and the ’579 patent and any additional patents that are added to this case.

27. “Capital One Application” means the mobile application(s) identified in Your response to Wapp’s interrogatory No. 1 and any amendments or supplements thereto.

28. “Development Tool” means any mobile application development or testing tool(s) identified in your response to Wapp’s Interrogatory No. 2 and any amendments or supplements thereto.

29. “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.

30. “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.

31. “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.

32. “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.

B. Instructions

1. Each interrogatory shall be answered fully unless it is in good faith objected to, in which event the reasons for your objection shall be stated in detail. If an objection pertains to only a portion of an interrogatory or a word, phrase, or clause contained within an interrogatory, you are required to state your objection to that portion only and to respond to the remainder of the

interrogatory using your best efforts to do so. Your responses and objections, if any, are to be signed by the attorney making them.

2. If in responding to any of these interrogatories you encounter any ambiguity in construing the interrogatory or any definition or instruction relevant to the interrogatory, set forth the matter deemed ambiguous and the construction selected or used in responding to the interrogatory.

3. If the procedure for answering interrogatories as authorized by Fed. R. Civ. P. 33(d) is used, for each interrogatory and subpart thereof, you must identify the production with specificity (i.e., bates numbers of the specific document or group of documents).

4. You must preserve and produce all information and documents in your possession, custody or control that are relevant to the claims or defenses in this lawsuit or reasonably calculated to lead to the discovery of admissible evidence. Especially since you are in the best position to know the nature and extent of discoverable information and documents in your possession, custody or control, any limits on these discovery requests should not be used to justify the loss, overwriting, purging, destruction or non-production of anything discoverable. Before you permit any such loss, overwriting, purging, deletion, or destruction, you should confer with Plaintiff to seek to resolve the issue consistent with the Federal Rules of Civil Procedure, Local Rules, Local Patent Rules and orders to the Court.

5. These discovery requests are deemed to be continuing in nature and, to the extent required by the Federal Rules of Civil Procedure, you must supplement your responses with information or documents that may become known or available after the date of your initial response.

C. Interrogatories

INTERROGATORY NO. 1

From March 6, 2019 through present, Identify and describe every mobile application you have made available in Apple's app store or Google's app store, including but not limited to the "Capital One Mobile" application. Your answer shall include the name of the application, the version numbers for every application, the app store through which it was released (Apple or Google), when it was released, and when it was removed from an Apple or Google app store.

INTERROGATORY NO. 2

Identify all mobile application development and testing tools you have used in the development and testing of the mobile applications identified in response to Interrogatory No. 1., including at least Apple's Xcode Developer Tools (such as Xcode IDE, resource reports, Simulator, Instruments, and Network Link Conditioner) and Google's Android Studio (such as the code editor, Android Virtual Devices, Android Emulator, Profilers, and Network Inspector). For each identified tool, your answer shall include which version of the tool was used and the dates of use by you from March 6, 2019 through present.

DATED: September 30, 2025

Respectfully submitted,

By: /s/ Leslie V. Payne

Leslie V. Payne
State Bar No. 0784736
lpayne@hpcllp.com
R. Allan Bullwinkel
State Bar No. 24064327
abullwinkel@hpcllp.com
Alden G. Harris
State Bar No. 24083138
aharris@hpcllp.com
Christopher L. Limbacher
State Bar No. 24102097
climbacher@hpcllp.com
HEIM PAYNE & CHORUSH, LLP
609 Main Street, Suite 3200
Houston, Texas 77002
Telephone: (713) 221-2000
Facsimile: (713) 221-2021

**ATTORNEYS FOR PLAINTIFFS
WAPP TECH LIMITED PARTNERSHIP and
WAPP TECH CORP.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been served on all counsel of record via email on September 30, 2025.

/s/ Leslie V. Payne
Leslie V. Payne