IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

HBCU MESSAGING US LP, Plaintiff, v. APPLE, INC., and GREEN DOT CORPORATION, Defendants.	C.A. No. 1:24-cv-1199 **JURY TRIAL DEMANDED**

COMPLAINT FOR PATENT INFRINGEMENT

HBCU Messaging US LP, for its Complaint against Defendants Apple, Inc. and Green Dot Corporation alleges the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 et seq.

PLAINTIFF HBCU MESSAGING US, LP AND THE HBCU TECHNOLOGY FOUNDATION

2. Plaintiff HBCU Messaging US, LP ("Plaintiff") is a limited partnership organized under the laws of the State of Virginia with its principal place of business at 4445 Corporation Ln Ste 264, Virginia Beach, VA, 23462.

3. Plaintiff is jointly owned by HBCU Tech Holding I, LLC and HBCU Tech Holding II, LLC. HBCU Tech Holding I, LLC and HBCU Tech Holding II, LLC are wholly owned subsidiaries of the HBCU Technology Foundation.

4. Plaintiff holds all rights and title to certain patents issued by the United States Patent and Trademark Office, including the Asserted Patents.

5. The HBCU Technology Foundation ("the HBCU Tech Foundation") is a 501(c)(3) nonprofit organization that was formed with the intent of spurring technological innovations, and supporting technology programs within the nation's Historically Black Colleges and Universities ("HBCUs"), and acting as a collective technology transfer organization for all of the nation's HBCUs that lack such function or could otherwise utilize such support.

6. The HBCU Tech Foundation was formed by the National Association for Equal Opportunity in Higher Education ("NAFEO"). NAFEO is the only national membership association of all of the nation's HBCUs and Predominantly Black Institutions (PBIs). Founded in 1969 by the presidents and chancellors of HBCUs and other equal educational opportunity institutions, NAFEO is a one of a kind membership association representing the presidents and chancellors of the public, private, independent, and land-grant, two-year, four-year, graduate and professional HBCUs and PBIs.

7. The mission of the HBCU Tech Foundation is centered on four "Pillars of Success": (1) education, (2) intellectual property protection, (3) commercialization and licensing, and (4) revenue generation in support of all HBCUs throughout the country.

8. As one example, the HBCU Tech Foundation offers free webinars to faculty, students and staff of HBCUs addressing various facets of invention, IP protection, commercialization and licensing. It also offers internships for students interested in intellectual property and provides direct support for faculty, students and staff looking to protect and commercialize ideas and inventions.

9. The HBCU Tech Foundation supports HBCUs protection of ideas and inventions by, among others, providing access to resources for patent, trademark and trade secret protection.

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10. The HBCU Tech Foundation also provides assistance for HBCUs that desire to commercialize and license its own intellectual property by offering support in new business formation, assisting with outlicensing of intellectual property and forming and managing patent portfolios to benefit the member institutions.

11. Revenue received by the HBCU Tech Foundation through the outlicensing of patents either owned by itself or owned by entities under its control (including any revenue generated by licensing of Plaintiff's patents) shall be: (1) utilized to fund its own operations as a non-profit organization; with the remainder then (2) remitted to member HBCU institutions to support the missions of those institutions, including advancing the development of technology programs and research.

12. The ultimate goal of the HBCU Tech Foundation is to create a virtuous cycle of research and development, intellectual property protection, and commercialization and licensing within the HBCU community.

13. A number of Historically Black Colleges and Universities are located within the State of Texas. These institutions are members of NAFEO and are intended beneficiaries of the work of the HBCU Tech Foundation:

- Huston-Tilloston University, Austin, Texas;
- Jarvis Christian University, Hawkins, Texas;
- Paul Quinn College, Dallas, Texas;
- Prairie View A & M University, Prairie View, Texas;
- Southwestern Christian College, Terrell, Texas;
- St Philip's College, San Antonio, Texas;
- Texas College, Tyler, Texas;

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- Texas Southern University, Houston, Texas.
- Wiley University, Marshall Texas.

DEFENDANTS

14. Upon information and belief, Defendant Apple Inc. ("Apple") is a corporation organized and existing under the laws of the state of California with a principal place of business at One Apple Park Way, Cupertino, California 95014. Apple is registered to do business in Texas and may be served via its registered agent at CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

15. Apple maintains regular and established places of business within this District including at least at the following locations: 12545 Riata Vista Circle, Austin, Texas 78727; 6900 W. Parmer Lane, Austin, Texas 78729; 12801 Delcour Drive, Austin, Texas 78727; and commercial outlets selling various of the Accused Instrumentalities at 3121 Palm Way, Austin, Texas 78758 and 2901 S. Capital of Texas Highway, Austin, Texas 78746.

16. In addition, the Western District of Texas houses "Apple's second largest U.S. campus, from which 6,000 Apple personnel work." *Koss Corp. v. Apple Inc.*, No. 6-20-CV-00665-ADA, 2021 U.S. Dist. LEXIS 222697, at *43 (W.D. Tex. Apr. 22, 2021.) Apple has a substantial presence in this District. *See Uniloc USA, Inc. v. Apple Inc*., No. A-18-CV-992-LY, 2019 U.S. Dist. LEXIS 80289, at *9 (W.D. Tex. Apr. 8, 2019); *see also id.* at * 2 ("Apple also maintains in Austin, Texas—a 1.1 million square-foot campus and a separate 216,000 square-foot campus. Apple employs more than 6,000 employees at these Austin facilities.")

17. On information and belief, Apple designs, assembles, manufactures, troubleshoots, distributes, imports, provides service for, and/or sells in Texas and specifically the Western District

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of Texas devices such as the Mac Pro, iPad and iPhone, and further offers applications that, singly or together with other instrumentalities, infringe the Asserted Patents as set forth herein.

18. Upon information and belief, Defendant Green Dot Corporation ("Green Dot", collectively with Apple, "Defendants") is a corporation organized and existing under the laws of the state of Delaware with a principal place of business at 114 W. 7th Street, Suite 240, Austin, Texas 78701. Green Dot is also registered to do business in Texas and may be served via its registered agent at CSC-Lawyers Incorporated, 211 E. 7th Street Suite 620 Austin, Texas 78701

19. Upon information and belief, Green Dot is a payment platform company whose technology is used in, among other applications, Apple Cash. Apple Cash, formerly known as Apply Pay Cash, allows the transfer of money from one user to another via the iMessage service and/or Apple's Messages App.

JURISDICTION AND VENUE

20. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

21. This court has subject matter jurisdiction under 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patent Law).

22. This United States District Court for the Western District of Texas has general and specific personal jurisdiction over Defendants because, directly or through intermediaries, Defendants have committed acts within the District giving rise to this action and are present in and transact and conduct business in and with residents of this District and the State of Texas.

23. Plaintiff's causes of action arise, at least in part, from Defendants' contacts with and activities in this District and the State of Texas.

24. This Court has personal jurisdiction over Defendants, because Defendants have sufficient minimum contacts within the State of Texas and this District, pursuant to due process

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and/or Texas Civil Practice & Remedies Code § 17.041 et seq., as Defendants have purposefully availed itself of the privileges of conducting business in the State of Texas by regularly conducting and soliciting business within the State of Texas and within this District, and because Plaintiff's causes of action arise directly from Defendants' business contacts and other activities in the State of Texas and this District.

25. Venue is proper in this judicial district under 28 U.S.C. § 1400(b). Defendants have a number of regular and established places of business in this District and, on information and belief, Defendants have committed acts of infringement in this District.

ASSERTED PATENTS

26. Plaintiff is the owner of patents, including U.S. Patent Nos. 8,918,127 ("the '127 patent) (attached as Exhibit 1), 11,012,827 ("the '827 patent) (attached as Exhibit 3), 11,089,450 ("the '450 patent") (attached as Exhibit 5), 11,653,182 ("the '182 patent") (attached as Exhibit 7), 11,653,183 ("the '183 patent") (attached as Exhibit 9), 11,991,600 ("the '600 patent") (attached as Exhibit 11), and 11,991,601 ("the '601 patent) (attached as Exhibit 13) (collectively "Asserted Patents").[1]

27. The Asserted Patents stem from—and are part of—a portfolio of patents originally assigned to Messmo Technologies Pty. Limited ("Messmo").

28. On information and belief, from 2007 through 2010, Messmo was a mobile internet texting platform that enabled users to share text and attachments such as audio, images and video

[1] Plaintiff is also the assignee and owner of all right, title and interests in U.S. Patent Nos. 8,401,576, 8,903,438, 8,918,128, 8,996,047,10,893,395, 10,924,896, 11,044,584, 11,218,847, 11,425,541, 11,432,115, 11,445,338, 11,533,587, 11,812,345, 11,871,306, and reserves the right to assert one or more of these additional patents, for example if discovery shows or confirms that Defendants are infringing them.

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with other Messmo users and non-users alike through its free downloadable application. On information and belief, Messmo ceased commercial operations in 2009 or 2010.

29. In 2014, Messmo assigned some or all of its portfolio of patents to Rembrandt Messaging Technologies, LP ("Rembrandt Messaging"), which in turn assigned the United States assets to Rembrandt Messaging Technologies II, LP ("Rembrandt Messaging II"). On information and belief, both Rembrandt Messaging and Rembrandt Messaging II were controlled, directly or indirectly, by Rembrandt IP Management, LLC (collectively with Rembrandt Messaging and Rembrandt Messaging II, the "Rembrandt entities").

30. On information and belief, the mission of Rembrandt IP Management, LLC was to help patent owners achieve a fair return on their intellectual property assets by providing the necessary resources, including professional expertise and financial capital, to maximize the value of infringed intellectual property. On information and belief, Rembrandt IP Management LLC's business included working with owners of strong patents that have great market value, and enforcing these patents against major companies that may infringe upon them.

31. The Rembrandt entities made a decision to work with the HBCU Tech Foundation regarding the Asserted Patents, as well as other patents assigned from Messmo. The entities holding direct ownership of those patents—namely, Rembrandt Messaging and Rembrandt Messaging II—were transferred to HBCU Tech Holding I, LLC and HBCU Tech Holding II, LLC, wholly owned subsidiaries of the HBCU Tech Foundation. Subsequent to that transfer, Rembrandt Messaging was renamed HBCU Messaging International, LP; and Rembrandt Messaging II was renamed HBCU Messaging US, LP.

32. The specifications of the Asserted Patents describe a messaging system that can utilize either a short message service ("SMS") or packet switched message service ("PSMS").

(*See, e.g.*, Ex. 2 at 2:43-53.) The ability to send both SMS and PSMS messages enhances multiple features of messaging, including for example, the ability to send text messages interspersed with other content such as pictures, sounds and animation (*See id*. at 2:54-60.) Additional features and advantages of each Asserted Patent are set forth below.

33. The patents also describe providing a visual indication of whether SMS or PSMS is utilized with a given message. (*Id*. at 8:49-56.) As set forth herein, this feature corresponds, for example, to the famous and valuable "blue bubble / green bubble" distinction between messages sent via iMessage versus those sent via SMS or other services on the Apple Messages App.

34. Plaintiff is the rightful owner of the Asserted Patents and holds the entire right, title and interest in the Asserted Patents.

35. As set forth within the Asserted Patents themselves, and confirmed by independent industry expert Dr. Gary Lomp, each of the Asserted Patents, and in particular each claim addressed within the attached Claim Charts, describes and claims inventions that improve the operation of computer systems and in particular electronic messaging systems. *See* Declaration of Dr. Gary Lomp, Ph.D, Regarding Patent Nos., 8,918,127, 11,012,827, 11,089,450, 11,653,182, 11,653,183, 11,991,600, and 11,991,601 ("Lomp Decl.") attached hereto as Exhibit 15, at ¶¶ 14-15. 25-27. The claims of the Asserted Patents each include what were, at the time of the inventions, unconventional elements or combinations of elements, as set forth herein. *See id.* at ¶¶ 14–15, 25–27, & 30–86.

36. Claim 1 of the '127 patent contains numerous individual elements that individually and collectively provide improvements to computerized messaging systems. Lomp Decl. at ¶¶ 30-31.

37. In particular, the "receiving" provides improved computerized messaging functionality through the ability to determine a transmission mode based on information associated with the destination address ***prior to transmission***, which was not well-known, generic, conventional, or in common use as of the July 2007-08 timeframe, when transmission in conventional systems did not adapt transmission the transmission format so as to enable remote capabilities. Lomp Decl. at ¶ 30.a; *see id.* at ¶¶ 32–33.

38. The "determining" and "selecting" elements likewise provide improved computerized messaging functionality by elaborating that the sender's device selects a particular transmission mode based on an indication that the destination address was a subscriber of a non-SMS packet-switched transmission mode, which (among other things) allowed the claimed automatic transmission mode selection techniques to occur outside the auspices of the mobile telephony operator and seamlessly (and behind the scenes) from the perspective of the user. Lomp Decl. at ¶¶ 30.b.i, 30.b.iii. This is also reflected in the second "wherein" clause. *Id.* at ¶ 30.e.

39. As of the July 2007–08 timeframe, the use of the destination address as the basis for the determination and the automatic selection of transmission mode depending on an indication of the recipient's capability to receive messages were not well-known, generic, conventional, or in common use as of the July 2007–08 timeframe. Lomp Decl. at ¶¶ 30.b.ii, 30.b.iv; *see id.* at ¶¶ 32–33.

40. The third "wherein" clause additionally provides improved computer messaging functionality by specifying that the request sent to the server in the "determining" step does not traverse the cellular core network and preserving network resources associated, which was not well-known, conventional, generic, or in common use as of the July 2007–08 timeframe. Lomp Decl. at ¶ 30.d; *see id.* at ¶¶ 32–33.

41. Additionally, the ordered combination of the elements in claim 1 of the ’127 patent were, as of the July 2007–08 timeframe working together as recited in the context of the claim, collectively reflected an overall improvement in computer messaging technology by combining each of the aforementioned improvements. Lomp Decl. at ¶ 31. At least this ordered combination was an unconventional arrangement that was not well-understood, routine, conventional, or in common use as of that time. Lomp Decl. at ¶¶ 32–33.

42. Claim 9 of the ’827 patent contains numerous individual elements that individually and collectively provide improved computerized messaging functionality. Lomp Decl. at ¶ 34.

43. As an initial matter, claim 9 depends from (and thus incorporates the elements of) claim 1 of the ’827 patent, which describes a device designed to support the unconventional operations described in the’127 patent and thereby provide improved computerized messaging functionality. *Id.* But the additional elements recited in claim 9 also capture an inventive concept and improved computerized messaging functionality. Lomp Decl. at ¶¶ 35–36. As with the ’127 patent, these improvements provide for determination of transmission mode based on information associated with the destination address, which (among other things) allowed the claimed automatic transmission mode selection to occur outside the auspices of the mobile telephony operator and seamlessly (and behind the scenes) from the perspective of the user. *Id.*

44. But the additional elements recited in claim 9 also provide computerized messaging functionality, both individually and collectively. Lomp Decl. at ¶¶ 37–38.

45. In particular, the recited display reflects an inventive concept and improved computerized messaging functionality in displaying presence information associated with the device of the addressed recipient. Lomp Decl. at ¶ 37.a. This was not well-known, generic, or

conventional or in common use as of the July 2007–08 timeframe and was not done at all in conventional "best effort" communication protocols like SMS messaging.

46. Likewise, the "wherein" clause provides improved computerized messaging functionality in using the recipient's subscription status to determine whether the recipient could utilize the enhanced packet-based service, and conditioning the display of that information on the recipient being a subscriber. Lomp Decl. at ¶ 37.b. This was not well-known, generic, conventional, or in common use as of the July 2007–08 timeframe. *Id.*

47. Additionally, at least the ordered combination of the elements in claim 9 of the '827 patent were, as of the July 2007–08 timeframe, an unconventional arrangement that was not well-understood, routine, conventional, or in common use as of that time. Lomp Decl. at ¶ 39.

48. Claim 6 of the '450 patent recites numerous elements that individually and collectively provide improved computerized messaging functionality. Lomp Decl. at ¶¶ 40, 43.

49. As an initial matter, claim 6 depends from (and thus incorporates all the elements of) its parent claim 1, the elements of which provide improved computer messaging functionality. Lomp Decl. at ¶ 41.

50. In particular, the recited "subscribing" element of claim 1 provides improved computerized messaging functionality by enabling automatic discovery and enrollment of potential subscribers to a service for receiving packet-switched messages at the point of use of the service, via a mobile device. Lomp Decl. at ¶ 41.a. Likewise, the recited "transmitting" element provides improved computerized messaging functionality for that subscription process flow by automatically sending a request with information to determine whether the recipient also subscribes to the enhanced service. Lomp Decl. at ¶ 41.b. Additionally, the recited "receiving" element provides improved computerized messaging functionality relating to the confirmation that

the recipient does subscribe to the service. Lomp Decl. at ¶ 41.c. Furthermore, the recited "formatting" and "wherein the message format" elements also provide improved computerized messaging functionality, describing a live usage scenario in which the subscribed service is actually used in a manner distinct from the conventional service, and specifically excludes the commonly-used SMS, MMS, and EMS formats. Lomp Decl. at ¶ 41.d.

51. Claim 6 provides improved computer messaging functionality in the dual-use of the single interface to display the two messages, juxtaposing the enhanced service subscription with the conventional service to give the user a comparative perspective. Lomp Decl. at ¶ 42.

52. In addition, the ordered combination of claim 6, which includes the elements recited in claim 1, working together in the context of the claim, combines each of those individual elements to provide an overall improvement in computer messaging technology. Lomp Decl. at ¶ 43.

53. At least the overall ordered combination recited in claim 6 was not well known, conventional, generic, or in common use as of the July 2007–08 timeframe, nor was the ordered combination of elements recited in claim 6 (which incorporates the ordered combination of elements recited in claim 1). *Id.* at ¶¶ 45-46.

54. Claim 17 of the '182 patent contains numerous individual elements that individually and collectively provide improved computerized messaging functionality. Lomp Decl. at ¶ 46.

55. The elements of this claim repeatedly refer to the use of an innovative PSMS, which is distinguished from the conventional SMS, EMS, and MMS services. *Id.* at ¶ 46.a. In particular, the recited "receiving" element provides improved computer messaging functionality by preventing blind attempts from flowing over the network when they were not able to be received,

thereby preserving network resources. Lomp Decl. at ¶ 46.b. This was not well-known as of the July 2007–08 timeframe when conventional methods of messaging involved "blind attempts" to send that did not first verify the subscription status of the recipient device. *Id.*

56. Likewise, the recited "sending a message" element provides improved computerized messaging functionality in the successful and automatic use of the enhanced service when the second recipient mobile phone is subscribed to and actively capable of receiving that service. Lomp Decl. at ¶ 46.c.

57. Additionally, the two "wherein" clauses of claim 17 provide improved computer messaging functionality of defaulting to use of the enhanced service while maintaining the capability of automatically using the conventional service as an alternative without instantiating a separate messaging client. Lomp Decl. at ¶¶ 46.d–46.e.

58. The ordered combination of the aforementioned individual elements recited in claim 17 of the '182 patent, working together as recited in the context of the claim, collectively reflected an overall improvement in computer messaging technology by combining each of those improvements. Lomp Decl. ¶ 47.

59. At least the ordered combination of those elements recited in claim 17 of the '182 patent was a non-conventional arrangement that was not well-understood, routine, conventional, or in common use as of the 2007–08 timeframe. Lomp Decl. ¶ 48.

60. This analysis also applies to claim 21, which depends from claim 17 and thus incorporates all of its elements. Lomp Decl. ¶ 49.

61. The additional elements recited by claim 21 provide further improvements to computerized messaging technology both on their own and in further combination with the ordered combination recited in claim 17. Lomp Decl. ¶¶ 50–51.

62. Moreover, at least the ordered combination of claim elements recited in claim 21 of the '182 patent was a non-conventional arrangement that was not well-understood, routine, conventional, or in common use as of the 2007–08 timeframe. Lomp Decl. ¶ 52.

63. Claim 20 of the '183 patent contains recites numerous elements that individually and collectively provide improved computerized messaging functionality. Lomp Decl. at ¶ 53.

64. In particular, the recited "retrieving" and "receiving" of claim 20 of the '183 patent provide improved computerized messaging functionality in the ability to determine a transmission mode based on information associated with the destination address prior to transmission and while the message is being composed. Lomp Decl. at ¶ 54.a. At that time, transmission in conventional systems did not adapt the transmission mode, only whether the message could be sent. *Id.*

65. The "sending, by the sending mobile phone, a second message via an SMS bearer, to the receiving mobile phone, subsequent to the sending mobile phone receiving the first response and based at least in part on the first message being undelivered to the receiving mobile phone" element provides improved computerized messaging functionality by automatically sending the outgoing message to the recipient's device as an SMS message as an alternative when the PSMS message has not been delivered, thereby allowing messages to be transmitted to the recipient in one format or another regardless of whether the recipient is able to receive PSMS messages at that time. Lomp Decl. ¶ 54.c

66. The other elements of claim 20 also provide improved computer messaging functionality by selecting a particular transmission mode based on an indicator that the destination address was a subscriber of a particular packet-switched transmission mode that was not SMS/EMS/MMS. Lomp Decl. ¶ 54.b. These elements make clear that the destination address (in the form of the mobile phone number) is used as the basis for determining and selecting the

appropriate transmission mode, and for the determination and selection to happen behind the scenes and automatically from the perspective of the sender. *Id.* ¶¶ 54.b.i–iii.

67. The ordered combination of the aforementioned individual elements recited in claim 20 of the '183 patent, working together as recited in the context of the claim, collectively reflected an overall improvement in computer messaging technology, operating in concert to utilize two methods of sending and automatic bearer selection based on whether the PSMS message is deliverable. Lomp Decl. ¶ 55.

68. None of this was well-known, conventional, generic, or in common use as of 2007–08 timeframe, when conventional systems did not employ any automatic selection of alternative transmission modes in the event of a message being undeliverable, or even adapt the transmission mode at all (let alone while the message was being composed). *See* Lomp Decl. ¶¶ 54.a, 54.c, 56. The same applies to the provision of a PSMS service for sending packet-switched messages (that are not SMS/EMS/MMS messages) to a mobile phone recipient. *Id.* at ¶ 57.

69. Claim 30 of the '183 patent likewise provides improved computerized messaging functionality. Lomp Decl. ¶ 58. Because claim 30 depends from (and thus incorporates all the elements of claim 20) it provides improvements to computerized messaging functionality of the same reasons as claim 20 does. *Id.* ¶ 59.

70. In addition, claim 30 also recites "wherein during the entire time between when the phone number of the receiving mobile phone is retrieved and when the first response is received, the receiving mobile phone is not connected to any message server," which provides improved computer messaging functionality by allowing the determination of whether an intended recipient is a subscriber to the PSMS even if the intended recipient is not connected to either message service utilized by the sending device. Lomp Decl. at ¶ 60.

71. In addition, the ordered combination of elements recited in claim 30 of the '183 patent, working together as recited in the context of the claim, collectively reflected an overall improvement in computer messaging technology by combining each of the aforementioned improvements. Lomp Decl. ¶ 61.

72. This ordered combination recited in claim 30 was a non-conventional arrangement that was not well-understood, routine, conventional, or in common use as of the 2007–08 timeframe, at least because the ordered combination of claim 20 (from which it depends) was not well-understood, routine, conventional, or in common use as of that time. Lomp Decl. ¶¶ 62–63.

73. Claim 10 of the '600 patent recites elements that individually and collectively reflect an inventive concept and improve computerized messaging functionality. Lomp Decl. at ¶ 64.

74. Claim 10 depends from (and thus incorporates all the elements of) claim 1, which recites numerous elements that individually and collectively provide improvements to computer messaging functionality. Lomp Decl. ¶ 65. At a high level, these elements describe using ***each*** of three possible methods—SMS, packet-switched service over cellular data, and packet-switched service over WLAN—to use a mobile phone to send messages to intended recipients. *Id.* More specifically, the claim also provides improved computerized messaging functionality by making clear that the destination address is the basis for selecting and determining the transmission mode and message format, by allowing the selecting and determining operations to occur seamlessly and behind the scenes from the sender's perspective through a single messaging client, and without regard to the capabilities of the recipient's current network connection. Lomp Decl. at ¶¶ 65–66.

75. Beyond the elements recited by claim 1, the additional elements recited by claim 10 further improve computerized messaging functionality. In particular, the recitation of "wherein

the first receiving mobile phone, the second receiving mobile phone and the third receiving mobile phone are the same mobile phone" describes using ***each*** of three possible methods to send the respective appropriately-formatted messages recited in claim 1 to a single mobile phone, which allows the transmission of messages to the same recipient phone without regard to its available connectivity options at the time. Lomp Decl. at ¶ 67.

76. Moreover, the ordered combination of the individual elements recited in claim 10 of the '600 patent, working together as recited in the context of the claim, collectively reflected an overall improvement in computer messaging technology by combining each of the aforementioned improvements. Lomp Decl. at ¶ 68.

77. Nor was this ordered combination well-known, generic, in common use, or conventional as of the 2007–08 timeframe, in particular the sending of three differently-formatted messages to the intended recipient's mobile phone using three different transmission modes. Lomp Decl. at ¶ 69.

78. Claim 14 of the '600 patent also recites elements that individually and collectively provide improvements to computerized messaging functionality which include those recited in claim 13 from which it depends. Lomp Decl. at ¶¶ 70-71. The improvements to computerized messaging functionality recited in claim 13 involve an unconventional PSMS service that is not any of the conventional SMS, MMS, or EMS services that were well-known as of the 2007–08 timeframe. *Id.* at ¶ 71. More specifically, these elements provide for the sending of three different appropriately-formatted messages, each in its respective transmission mode. *Id.* This provides improvements in computerized messaging functionality by, among other things, determining transmission mode based on information associated with the destination address prior to transmission, used a common destination address for all three transmission modes including

messages transmitted outside the mobile operator network, allowed the three-format sending to occur seamlessly and automatically from the perspective of the sender and with the transmission modes selected independent of the destination address provided. *Id.* at ¶ 72.

79. Beyond the recitation of claim 13, the additional recitation of claim 14 further improve computerized messaging functionality over the system of claim 13 with particular components that allow the automatic detection of discrepancies between the stored information for the capabilities of a subscriber's mobile phone and the actual capabilities, and the automatic updating of those capabilities in the data store. Lomp Decl. at ¶ 73. The ordered combination of these individual elements, working together as recited in the context of the claim, collectively reflected an overall improvement in computer messaging technology by combining each of the aforementioned improvements. *Id.* at ¶ 74.

80. At least that ordered combination of claim elements recited in claim 14 of the '600 patent was a non-conventional arrangement that was not well-understood, routine, conventional, or in common use as of the 2007–08 timeframe. Lomp Decl. at ¶ 75. A system set up to send, using the same messaging client on a mobile phone, messages to one or more recipient phones using three different methods was not well-understood, routine, conventional, or in common use as of the 2007–08 timeframe. *Id.* That is especially true in combination with the automatic detection and updating of subscriber information, because at that time, subscriber ***equipment*** capabilities were not typically treated and maintained separate and independent from the generic subscriber information in subscriber registers such as the Home Location Register (HLR). *Id.*

81. Claim 15 of the '600 patent likewise recites elements that provide improvements to computerized messaging functionality. Lomp Decl. at ¶¶ 76, 78.

82. As an initial matter, claim 15 depends from claim 14, and thus incorporates all of its elements (and those of claim 13) that provide improvements to computer messaging functionality. Lomp Decl. at ¶ 77. Claim 15 further specifies that the superseded association identified and changed in claim 14 is additionally removed so that it will no longer be "flagged" as a discrepancy. *See id.*

83. The ordered combination of the aforementioned individual elements recited in claim 15, working together as recited in the context of the claim, collectively reflected an overall improvement in computer messaging technology by combining each of the foregoing improvements. Lomp Decl. at ¶ 78.

84. This was not well-known as of the 2007–08 timeframe, at which time subscriber equipment capabilities were not distinguished from the remainder of generic subscriber information in conventional messaging systems. Lomp Decl. at ¶ 79.

85. Claim 26 of the '601 patent recites elements that individually and collectively improve computerized messaging functionality. Lomp Decl. at ¶ 80.

86. As an initial matter, claim 26 depends from (and thus incorporates) all the elements and improved computer messaging functionality of its parent claim 25. Lomp Decl. at ¶¶ 80–81. The improved computer messaging functionality of claim 25 involves a subscription process triggered, on-the-fly and transparent to the user, by composing a message. *Id.* at ¶¶ 81-82. In addition, this provides for improved computer messaging functionality by adapting the transmission mode prior to transmission based on information associated with the destination address—in this case, the mobile phone number of the recipient—automatically and seamlessly from the perspective of the sender. *Id.* at ¶ 83.

87. Claim 26 provides a further improvement to the computerized messaging of claim 25 by controlling message traffic by using messages sent to the plurality of devices to bar messages from being sent to the second device via the service. Lomp Decl. at ¶ 84. This discourages subscriber traffic ***before*** the unnecessary processing of messages that cannot be received, which improves computer messaging functionality. *Id.* This was not well-known, generic, conventional, or in common use as of July 2008. *Id.*

88. The ordered combination of these individual elements recited in claim 26 of the '601 patent, working together as recited in the context of the claim, collectively reflected an overall improvement in computer messaging technology by combining each of the aforementioned improvements. Lomp Decl. at ¶ 85.

ACCUSED INSTRUMENTALITIES

89. The Accused Instrumentalities include: (1) Apple's Messages App; (2) Apple's Messages App operating with Apple Cash; (3) Apple's Messages App, alone or in conjunction with Apple Cash, along with any other software operating on Apple Devices (as defined below) that perform any of the functionalities set forth in the attached claim chart Exhibits demonstrating infringement of the Asserted Patents ("Claim Charts," attached as Exhibits 2, 4, 6, 8, 10, 12, and 14); (4) Apple's servers and infrastructure that support or otherwise provide functionality for iMessage, Apple's Messages App, and/or Apple Cash; (5) devices sold or offered for sale by Apple, including but not limited to the Apple iPhone, iPad Watch and MacBook, that utilize Apple's Messages App and/or Apple Cash (generally, "Apple Devices"); (6) any WiFi routers offered or sold by Apple. For avoidance of doubt, the Accused Instrumentalities include those products and services identified in the attached Claim Charts, or which support or enable the features identified within the Claim Charts, without limitation.

90. Pursuant to Apple's iOS and iPadOS Software License Agreement, attached as Exhibit 33, Apple retains ownership over all software that is part of the Accused Instrumentalities: "Apple and its licensors retain ownership of the Apple Software itself and reserve all rights not expressly granted to you."

91. Apple maintains the right to collect and use data derived from the Accused Instrumentalities for its own purposes. (*See id.* "Certain features like Analytics, Location Services, Siri, and Dictation may require information from your Device to provide their respective functions. When you turn on or use these features, details will be provided regarding what information is sent to Apple and how the information may be used.") On information and belief, Apple receives benefits, including financial benefits, from the collection and use of such data, which is at least in part facilitated and effected via consumers' usage of the Accused Instrumentalities.

GERMAN LITIGATION

92. On June 29, 2015, Rembrandt Messaging (then the owner of German patents within the same international patent family as the Asserted Patents), filed suit against Apple and others in the German Court in the Regional Court of Düsseldorf ("the German Infringement Litigation").

93. That case asserted infringement of EP 2177072 ("EP '072"). EP '072 claims priority to two PCT applications, PCT/AU2007/903979 and PCT/AU2007906230. The Asserted Patents claim priority to the same PCT applications.

94. In response to the filing of the German litigation, Apple filed a Nullity Action in the German Patent Court ("Nullity Action"). The Nullity Action claimed that the claims of EP '072 patent were unpatentable over certain prior art.

95. Initially, the German Patent Court found that the claims of EP '072 were unpatentable over the asserted prior art.

96. On May 28, 2018, Rembrandt Messaging appealed the German Patent Court's decision to the German Federal Court of Justice, Germany's Supreme Court.

97. On appeal, the Federal Court of Justice partially overruled the German Patent Court's finding and replaced the previous claims of the EP '072 patent with claims that were deemed patentable. Thus, the EP '072 patent survived the Nullity Action with amended claims.

98. The filing of the Nullity Action had, at the time, led to a stay of the German Infringement Litigation pending the outcome of the Nullity Action. Following the decision of the Federal Court of Justice affirming EP '072 with amended claims, the stay was lifted and a renewed complaint with the amended claims was filed on August 2, 2021.

99. On November 26, 2023, the expert for the 2nd Civil Senate of the Düsseldorf Higher Regional Court, Professor Andreas Kirstädter, issued his opinion that Rembrandt Messaging's testing had not conclusively proven infringement.

100. Following Professor Kirstädter's report, Rembrandt Messaging conducted additional testing to address Professor Kirstädter comments regarding Rembrandt Messaging's initial infringement proof. On or about February 26, 2024, Rembrandt Messaging submitted a video of its additional testing to the Court along with an expert report from Rembrandt Messaging's expert, Professor Peter Rost. Professor Rost's report responded to Professor Kirstädter's report and further explained the new testing. In addition Rembrandt Messaging requested that Professor Kirstädter issue a supplemental report based on this new testing as well as testify at an oral hearing.

101. On June 20, 2024, as a result of these submissions, the Court requested that Professor Kirstädter consider issuing a supplemental report based on the new testing. On July 10,

2024, Professor Kirstädter agreed that he would provide a supplement expert report based on the new testing.

102. On August 15, 2023, Apple was given the opportunity to also comment on Rembrandt Messaging's new testing and submissions. During this time period, the name Rembrandt Messaging was changed to HBCU Messaging International LP ("HBCU Messaging International").

103. The German Infringement Litigation is still pending while the Court's expert considers HBCU Messaging International's new testing.

104. At least as a result of the German Infringement Litigation and the Nullity Action, Apple has had knowledge of the Asserted Patents' family since at least June 2015. Rembrandt Messaging II was also aware, during this time period, of statements made by Apple regarding the operation of iMessage and its Messages App.

APPLE'S KNOWLEDGE OF THE PATENTS IN SUIT

105. On October 3, 2016, Apple reached out to Rembrandt Messaging regarding the matter. A discussion took place between representatives of Rembrandt Messaging and Apple on October 13, 2016.

106. During the October 13, 2016, discussion, Rembrandt Messaging described the messaging patents it and Rembrandt Messaging II owned worldwide, including in the United States. Apple represented that it had purportedly developed and deployed a workaround which would avoid any potential infringement of Rembrandt Messaging's patents.

107. On October 20, 2016, Rembrandt Messaging asked for further information about Apple's workaround. A subsequent discussion took place on November 28, 2016, but no

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agreement was reached regarding Apple's purported workaround, its infringement of Rembrandt Messaging's and Rembrandt Messaging II's patents, and its need to take a license to those patents.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,918,127

108. The allegations set forth in the foregoing paragraphs 1 through 107 are incorporated into this Count.

109. On December 23, 2014, the '127 patent entitled "Messaging Services in a Wireless Communications Network" was duly and legally issued from U.S. Patent Application No. 13/762,347 filed on February 7, 2013, claiming priority back to Patent Applications PCT/AU2007/903979 filed on July 24, 2007, and PCT/AU2007/906230 filed on November 13, 2007.

110. Plaintiff is the assignee and owner of all right, title and interests in and to the '127 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

111. Apple has and continues to directly infringe at least claim 1 of the '127 patent by making, using, selling, importing, offering for sale, providing, practicing, and/or causing to be used the Accused Instrumentalities that infringe the patented methods as set forth in attached Exhibit 2.

112. Apple was made aware of the patent family to which the '127 patent belongs and allegations of its infringement thereof through at least the German Infringement Litigation initiated on June 29, 2015, as well as through Apple's interactions with one or more Rembrandt entities.

113. Specifically, on information and belief, Apple was aware of the '127 patent shortly after the filing of the German litigation on June 29, 2015.

114. Since June 29, 2015, Apple's infringement has been, and continues to be willful.

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115. Upon information and belief, the Accused Instrumentalities are used, marketed, provided to, and/or used by Apple, as well as by or for, Apple's partners, clients, and customers across the country and in this District.

116. Upon information and belief, Apple has induced and continue to induce others to infringe at least claim 1 of the '127 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Apple's partners, clients and customers, whose use of the Accused Instrumentalities constitutes direct infringement of at least claim 1 of the '127 patent.

117. In particular, the Apple's actions that aid and abet others such as its partners, clients and customers to infringe include advertising and distributing the Accused Instrumentalities and providing instructions, materials, documentation, and other support regarding the Accused Instrumentalities. Such instructions, materials, documentation, and other support include, but are not limited to, Exhibits 16, 17, 19, 22, 23, 24, and 30.

118. Any party, including Apple's partners, clients and customers using at least the Apple Messaging App and Apple services and infrastructure that implement the Apple Messaging App necessarily infringes the '127 patent. Apple thus induces others to infringe the '127 patent. Apple has knowingly induced infringement since at least June 29, 2015.

119. Upon information and belief, Apple is liable as a contributory infringer of the '127 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States at least the Apple Messaging App and Apple servers and infrastructure that implement the Apple Messaging App which are especially made or adapted for use in an infringement of the '127 patent. The Apple Messaging App and Apple servers and infrastructure that implement the Apple

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Messaging App are material components for use in practicing the '127 patent and are not staple articles or commodities of commerce suitable for substantial non-infringing use.

120. Plaintiff has been harmed by Apple's Infringing activities.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 11,012,827

121. The allegations set forth in the foregoing paragraphs 1 through 120 are incorporated into this Count.

122. On May 18, 2021, the '827 patent entitled "Random Number Derived Message Transmission to a Third Party Provider" was duly and legally issued from U.S. Patent Application No. 17/114,645 filed on December 8, 2020, claiming priority back to Patent Applications PCT/AU2007/903979 filed on July 24, 2007, and PCT/AU2007/906230 filed on November 13, 2007.

123. Plaintiff is the assignee and owner of all right, title and interests in and to the '827 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

124. Defendants have and continue to jointly directly infringe at least claims 1 and 9 of the '827 patent by making, using, selling, importing, offering for sale, providing, practicing, and/or causing to be used the Accused Instrumentalities that infringe the patented methods as set forth in attached Exhibit 4. On information and belief, Defendants jointly offer and contribute to the functionality of Apple Cash, and have contracted with each other to provide Apple Cash to consumers.

125. At least Apple was made aware of the patent family to which the '827 patent belongs and allegations of infringement thereof through at least the German Infringement

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Litigation initiated on June 29, 2015, as well as through Apple's interactions with one or more Rembrandt entities.

126. Specifically, on information and belief, Apple was aware of the '827 patent shortly after its issuance on May 18, 2021. On information and belief, Green Dot further became aware of the '827 patent shortly after Apple's awareness, at least because of the relationship between the two entities in jointly offering and supporting Apple Cash.

127. Since May 18, 2021, Defendants' infringement has been, and continues to be willful.

128. Upon information and belief, the Accused Instrumentalities are used, marketed, provided to, and/or used by Defendants, as well as by or for the Defendants' partners, clients, and customers across the country and in this District.

129. Upon information and belief, Defendants have induced and continue to induce others to infringe at least claims 1 and 9 of the '827 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendants' partners, clients and customers, whose use of the Accused Instrumentalities constitutes direct infringement of at least claim 9 of the '827 patent.

130. In particular, the Defendants' actions that aid and abet others such as its partners, clients and customers to infringe include advertising and distributing the Accused Instrumentalities and providing instructions, materials, documentation, and other support regarding the Accused Instrumentalities. Such instructions, materials, documentation, and other support include, but are not limited to, Exhibits 16, 17, 19, 21, 23, 26, 27, 28, 29, and 30.

131. Any party, including Defendants' partners, clients and customers using at least the Apple Messaging App, Apple Cash and Apple servers and infrastructure that implement the Apple

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Messaging App and Apple Cash necessarily infringes the ’827 patent. Defendants thus induce others to infringe the ’827 patent. Defendants have knowingly induced infringement since at least May 18, 2021.

132. Upon information and belief, the Defendants are liable as a contributory infringer of the ’827 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States at least the Apple Messaging App, Apple Cash and Apple servers and infrastructure that implement the Apple Messaging App and Apple Cash of the Accused Instrumentalities which are especially made or adapted for use in an infringement of the ’827 patent. The Apple Messaging App, Apple Cash and Apple servers and infrastructure that implement the Apple Messaging App and Apple Cash are material components for use in practicing the ’827 patent and are not staple articles or commodities of commerce suitable for substantial non-infringing use.

133. Plaintiff has been harmed by Defendants’ Infringing activities.

COUNT III – INFRINGEMENT OF U.S. PATENT NO. 11,089,450

134. The allegations set forth in the foregoing paragraphs 1 through 133 are incorporated into this Count.

135. On August 10, 2021, the ’450 patent entitled “Messaging Services in a Wireless Communications Network” was duly and legally issued from U.S. Patent Application No. 16/714,113 filed on December 13, 2019, claiming priority back to Patent Applications PCT/AU2007/903979 filed on July 24, 2007, and PCT/AU2007/906230 filed on November 13, 2007.

136. Plaintiff is the assignee and owner of all right, title and interests in and to the ’450 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

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137. Apple has and continues to directly infringe at least claims 1 and 6 of the ’450 patent by making, using, selling, importing, offering for sale, providing, practicing, and/or causing to be used the Accused Instrumentalities that infringe the patented methods as set forth in attached Exhibit 6.

138. Apple was made aware of the patent family to which the ’450 patent belongs and allegations of its infringement thereof through at least the German Infringement Litigation initiated on June 29, 2015, as well as through Apple’s interactions with one or more Rembrandt entities.

139. Specifically, on information and belief, Apple was aware of the ’450 patent shortly after its issuance on August 10, 2021.

140. Since August 10, 2021, Apple’s infringement has been, and continues to be willful.

141. Upon information and belief, the Accused Instrumentalities are used, marketed, provided to, and/or used by Apple, as well as by or for, Apple’s partners, clients, and customers across the country and in this District.

142. Upon information and belief, Apple has induced and continues to induce others to infringe at least claims 1 and 6 of the ’450 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Apple’s partners, clients and customers, whose use of the Accused Instrumentalities constitutes direct infringement of at least claim 6 of the ’450 patent.

143. In particular, the Apple’s actions that aid and abet others such as its partners, clients and customers to infringe include advertising and distributing the Accused Instrumentalities and providing instructions, materials, documentation, and other support regarding the Accused Instrumentalities. Such instructions, materials, documentation, and other support include, but are not limited to, Exhibits 16, 17, 18, 19, 20, and 30.

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144. Any party, including Apple's partners, clients and customers using at least the Apple Messaging App and Apple servers and infrastructure that implement the Apple Messaging App necessarily infringes the '450 patent. Apple thus induces others to infringe the '450 patent.

145. Upon information and belief, the Apple is liable as a contributory infringer of the '450 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States at least the Apple Messaging App and Apple servers and infrastructure that implement the Apple Messaging App which are especially made or adapted for use in an infringement of the '450 patent. The Apple Messaging App and Apple servers and infrastructure that implement the Apple Messaging App are material components for use in practicing the '450 patent and are not staple articles or commodities of commerce suitable for substantial non-infringing use.

146. Plaintiff has been harmed by Defendants' Infringing activities.

COUNT IV – INFRINGEMENT OF U.S. PATENT NO. 11,653,182

147. The allegations set forth in the foregoing paragraphs 1 through 146 are incorporated into this Count.

148. On May 16, 2023, the '182 patent entitled "Server That Sends a Response When a Mobile Phone Has an Active Status With a Packet Switched Message Service" was duly and legally issued from U.S. Patent Application No. 17/959,687 filed on October 4, 2022, claiming priority back to Patent Applications PCT/AU2007/903979 filed on July 24, 2007, and PCT/AU2007/906230 filed on November 13, 2007.

149. Plaintiff is the assignee and owner of all right, title and interests in and to the '182 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

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150. Apple has and continues to directly infringe at least claims 17 and 21 of the '182 patent by making, using, selling, importing, offering for sale, providing, practicing, and/or causing to be used the Accused Instrumentalities that infringe the patented methods as set forth in attached Exhibit 8.

151. Apple was made aware of the patent family to which the '182 patent belongs and allegations of its infringement thereof through at least the German Infringement Litigation initiated on June 29, 2015, as well as through Apple's interactions with one or more Rembrandt entities.

152. Specifically, on information and belief, Apple was aware of the '182 patent shortly after its issuance on May 16, 2023.

153. Since May 16, 2023, Apple's infringement has been, and continues to be willful.

154. Upon information and belief, the Accused Instrumentalities are used, marketed, provided to, and/or used by Apple, as well as by or for, Apple's partners, clients, and customers across the country and in this District.

155. Upon information and belief, Apple has induced and continue to induce others to infringe at least claims 17 and 21 of the '182 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Apple's partners, clients and customers, whose use of the Accused Instrumentalities constitutes direct infringement of at least claim 17 of the '182 patent.

156. In particular, the Apple's actions that aid and abet others such as its partners, clients and customers to infringe include advertising and distributing the Accused Instrumentalities and providing instructions, materials, documentation, and other support regarding the Accused Instrumentalities. Such instructions, materials, documentation, and other support include, but are not limited to, Exhibits 16, 17, 18, 19, 20, and 21

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157. Any party, including Apple's partners, clients and customers using at least the Apple Messaging App necessarily infringes the '182 patent. Apple thus induces others to infringe the '182 patent.

158. Upon information and belief, the Apple is liable as a contributory infringer of the '182 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States at least the Apple Messaging App which are especially made or adapted for use in an infringement of the '182 patent. The Apple Messaging App is a material component for use in practicing the '182 patent and is not a staple article or commodity of commerce suitable for substantial non-infringing use.

159. Plaintiff has been harmed by Apple's Infringing activities.

COUNT V – INFRINGEMENT OF U.S. PATENT NO. 11,653,183

160. The allegations set forth in the foregoing paragraphs 1 through 159 are incorporated into this Count.

161. On May 16, 2023, the '183 patent entitled "Undelivered Message Threshold" was duly and legally issued from U.S. Patent Application No. 17/959,697 filed on October 4, 2022, claiming priority back to Patent Applications PCT/AU2007/903979 filed on July 24, 2007, and PCT/AU2007/906230 filed on November 13, 2007.

162. Plaintiff is the assignee and owner of all right, title and interests in and to the '183 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

163. Apple has and continues to directly infringe at least claims 20 and 30 of the '183 patent by making, using, selling, importing, offering for sale, providing, practicing, and/or causing

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to be used the Accused Instrumentalities that infringe the patented methods as explained in attached Exhibit 10.

164. Apple was made aware of the patent family to which the ’183 patent belongs and allegations of its infringement thereof through at least the German Infringement Litigation initiated on June 29, 2015, as well as through Apple’s interactions with one or more Rembrandt entities.

165. Specifically on information and belief, Apple was aware of the 183 patent shortly after its issuance on May 16, 2023.

166. Since May 16, 2023, Apple’s infringement has been, and continues to be willful.

167. Upon information and belief, the Accused Instrumentalities are used, marketed, provided to, and/or used by Apple, as well as by or for, Apple’s partners, clients, and customers across the country and in this District.

168. Upon information and belief, Apple has induced and continues to induce others to infringe at least claims 20 and 30 of the ’183 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendants’ partners, clients and customers, whose use of the Accused Instrumentalities constitutes direct infringement of at least claim 30 of the ’183 patent.

169. In particular, the Apple’s actions that aid and abet others such as its partners, clients and customers to infringe include advertising and distributing the Accused Instrumentalities and providing instructions, materials, documentation, and other support regarding the Accused Instrumentalities. Such instructions, materials, documentation, and other support include, but are not limited to, Exhibits 16, 17, 19, 20, and 21.

170. Any party, including Apple’s partners, clients and customers using at least the Apple Messaging App and Apple servers and infrastructure that implement the Apple Messaging

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App necessarily infringes the ’183 patent. Defendants thus induce others to infringe the ’183 patent.

171. Upon information and belief, the Apple is liable as a contributory infringer of the ’183 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States at least the Apple Messaging App and Apple servers and infrastructure that implement the Apple Messaging App which are especially made or adapted for use in an infringement of the ’183 patent. The Apple Messaging App and Apple servers and infrastructure that implement the Apple Messaging App are material components for use in practicing the ’183 patent and are not staple articles or commodities of commerce suitable for substantial non-infringing use.

172. Plaintiff has been harmed by Defendants’ Infringing activities.

COUNT VII – INFRINGEMENT OF U.S. PATENT NO. 11,991,600

173. The allegations set forth in the foregoing paragraphs 1 through 172 are incorporated into this Count.

174. On May 21, 2024, the ’600 patent entitled “Methods for Bearer Selection Performed By a Sending Mobile Device” was duly and legally issued from U.S. Patent Application No. 18/224,817 filed on May 4, 2023, claiming priority back to Patent Applications PCT/AU2007/903979 filed on July 24, 2007, and PCT/AU2007/906230 filed on November 13, 2007.

175. Plaintiff is the assignee and owner of all right, title and interests in and to the’600 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

176. Apple has and continues to directly infringe at least claims 1, 10, 13, 14, and 15 of the ’600 patent by making, using, selling, importing, offering for sale, providing, practicing, and/or

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causing to be used the Accused Instrumentalities that infringe the patented methods as explained in attached Exhibit 12.

177. Apple was made aware of the patent family to which the ’600 patent belongs and allegations of its infringement thereof through at least the German Infringement Litigation initiated on June 29, 2015, as well as through Apple’s interactions with one or more Rembrandt entities.

178. Specifically, on information and belief, Apple was aware of the ’600 patent shortly after its issuance on May 21, 2024.

179. Since May 21, 2024, Apple’s infringement has been, and continues to be willful.

180. Upon information and belief, the Accused Instrumentalities are used, marketed, provided to, and/or used by Apple, as well as by or for, Apple’s partners, clients, and customers across the country and in this District.

181. Upon information and belief, Apple has induced and continues to induce others to infringe at least claims 1, 10, 13, 14, and 15 of the ’600 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendants’ partners, clients and customers, whose use of the Accused Instrumentalities constitutes direct infringement of at least claims 10, 14 and 15 of the ’600 patent.

182. In particular, the Apple’s actions that aid and abet others such as its partners, clients and customers to infringe include advertising and distributing the Accused Instrumentalities and providing instructions, materials, documentation, and other support regarding the Accused Instrumentalities. Such instructions, materials, documentation, and other support include, but are not limited to, Exhibits 16, 17, 19, 21, 23, 30, 31, and 32.

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183. Any party, including Apple's partners, clients and customers using at least the Apple Messaging App necessarily infringes the '600 patent. Defendants thus induce others to infringe the '600 patent.

184. Upon information and belief, the Apple is liable as a contributory infringer of the '600 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States at least the Apple Messaging App which are especially made or adapted for use in an infringement of the '600 patent. The Apple Messaging App is a material component for use in practicing the '600 patent and is not a staple article or commodity of commerce suitable for substantial non-infringing use.

185. Plaintiff has been harmed by Defendants' Infringing activities.

COUNT VI – INFRINGEMENT OF U.S. PATENT NO. 11,991,601

186. The allegations set forth in the foregoing paragraphs 1 through 185 are incorporated into this Count.

187. On May 21,2024, the '601 patent entitled "Wireless Messaging Method and Server" was duly and legally issued from U.S. Patent Application No. 18/224,817 filed on July 21, 2023, claiming priority back to Patent Applications PCT/AU2007/903979 filed on July 24, 2007, and PCT/AU2007/906230 filed on November 13, 2007.

188. Plaintiff is the assignee and owner of all right, title and interests in and to the '601 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

189. Apple has and continues to directly infringe at least claims 25 and 26 of the '601 patent by making, using, selling, importing, offering for sale, providing, practicing, and/or causing

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to be used the Accused Instrumentalities that infringe the patented methods as set forth in attached Exhibit 14.

190. Apple was made aware of the patent family to which the ’601 patent belongs and allegations of its infringement thereof through at least the German Infringement Litigation initiated on June 29, 2015, as well as through Apple’s interactions with one or more Rembrandt entities.

191. Specifically on information and belief, Apple was at least aware of the ’601 patent shortly after its issuance on May 21, 2024.

192. Since May 21, 2024, Defendants’ infringement has been, and continues to be willful.

193. Upon information and belief, the Accused Instrumentalities are used, marketed, provided to, and/or used by Apple, as well as by or for, Apple’s partners, clients, and customers across the country and in this District.

194. Upon information and belief, Apple has induced and continues to induce others to infringe at least claims 25 and 26 of the ’601 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendants’ partners, clients and customers, whose use of the Accused Instrumentalities constitutes direct infringement of at least claim 26 of the ’601 patent.

195. In particular, the Apple’s actions that aid and abet others such as its partners, clients and customers to infringe include advertising and distributing the Accused Instrumentalities and providing instructions, materials, documentation, and other support regarding the Accused Instrumentalities. Such instructions, materials, documentation, and other support include, but are not limited to, Exhibits 16, 17, 18, 19, 20, 24, and 25.

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196. Any party, including Apple's partners, clients and customers using at least the Apple Messaging App in conjunction with either Apple's WiFi routers or another base station necessarily infringes the '601 patent. Defendants thus induce others to infringe the '601 patent.

197. Upon information and belief, the Apple is liable as a contributory infringer of the '601 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States at least the Apple Messaging App which is especially made or adapted for use in an infringement of the '601 patent. The Apple Messaging App and WiFi routers are material components for use in practicing the '601 patent and are not staple articles or commodities of commerce suitable for substantial non-infringing use.

198. Plaintiff has been harmed by Defendants' Infringing activities.

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment for itself and against Defendants as follows:

A. An adjudication that Apple has infringed the '127, '827, '450, '182, '183, '600, and '601 patents;

B. An adjudication that Apple and Green Dot have jointly infringed the '827 patent;

C. An injunction on the offering and/or sale of Defendants' Accused Instrumentalities to avoid further infringement of the '127, '827, '450, '182, '183, '600, and '601 patents;

D. An award of damages to be paid by Defendants adequate to compensate Plaintiff for Defendants' past infringement of the '127, '827, '450, '182, '183, '600 and '601 patents and any continuing or future infringement through the date such judgment is entered, including interest,

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costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;

E. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees; and

F. An award to Plaintiff of such further relief at law or in equity as the Court deems just and proper.

Dated: October 7, 2024

/s/ Timothy Devlin
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