

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION**

TOPWIRE LLC,

Plaintiff,

v.

APPLE INC.,

Defendant.

Civil Action No. 7:25-CV-00551-ADA

JURY TRIAL DEMANDED

**DEFENDANT APPLE INC.'S OPENING BRIEF IN SUPPORT OF ITS PARTIAL
MOTION TO DISMISS PLAINTIFF TOPWIRE LLC'S FIRST AMENDED
COMPLAINT PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6)**

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I. INTRODUCTION

Plaintiff TopWire LLC (“TopWire”) filed its original complaint in this case against Defendant Apple Inc. (“Apple”) on December 1, 2025. ECF No. 1. Because TopWire’s original complaint suffered from numerous deficiencies with respect to TopWire’s induced and willful infringement pleadings, Apple sought a joint stipulation to dismiss those allegations subject to re-pleading after discovery. TopWire declined, so Apple moved to dismiss. But instead of responding to Apple’s motion, TopWire did what exactly what Apple had proposed to avoid unnecessary briefing and filed a First Amended Complaint (“FAC”). The FAC, however, fails to overcome the deficiencies in TopWire’s induced and willful infringement pleadings, because TopWire’s FAC still fails to plead facts sufficient to sustain those claims. Accordingly, Apple respectfully submits that TopWire’s causes of action for pre-suit induced and willful infringement should be dismissed

First, TopWire’s claims for pre-suit induced infringement should be dismissed. TopWire’s FAC falls far short of pleading the requisite facts to support that Apple: (1) specifically intended to cause another party’s infringement; or (2) knew that any third party’s acts constituted infringement. Instead, TopWire relies exclusively on generalized allegations regarding Apple’s publication of user manuals, marketing materials, and other standard product information, along with a single footnote citation to an iPhone User Guide webpage—none of which plausibly set forth facts demonstrating the requisite specific intent to encourage infringement. And TopWire’s half-hearted willful blindness theory—as a substitute for actual knowledge—is likewise legally deficient, because the FAC fails to identify any affirmative actions that Apple allegedly took to avoid learning of infringement.

Second, TopWire’s pre-suit willful infringement claims should be dismissed as well. TopWire fails to plead facts showing that Apple had the requisite pre-suit knowledge of any alleged infringement. In particular, TopWire bases its pre-suit willfulness allegations on a July

10, 2025 letter (the “Letter”) to Apple, in which it generically alleged that various Apple products infringe the asserted patent. But as shown by the allegations in the FAC itself, the Letter failed to provide Apple with the requisite knowledge of infringement. Indeed, TopWire acknowledges that Apple responded to the Letter on July 22, 2025 specifically requesting claim charts and other information to support TopWire’s allegation—confirming that the Letter did not provide Apple with the information necessary to know that its conduct allegedly infringed. And the FAC does not allege that TopWire ever provided such information before filing suit. Accordingly, the pleaded allegations are insufficient to show that Apple had actual pre-suit knowledge of infringement.

Because TopWire fails to plead facts sufficient to support the requisite elements of either cause of action, Apple respectfully requests that the Court dismiss TopWire’s pre-suit induced and willful infringement claims under Rule 12(b)(6).

II. FACTUAL BACKGROUND

TopWire filed this action on December 1, 2025, alleging that certain Apple products infringe the Asserted Patent.¹ ECF No. 1 at 3. In its original complaint, TopWire advanced conclusory allegations of induced and willful infringement, which Apple moved to dismiss. ECF No. 19. Rather than opposing Apple’s motion, TopWire filed its FAC on February 23, 2026. ECF No. 22. In the FAC, TopWire re-alleges that Apple indirectly infringes by inducing infringement (*e.g.*, FAC ¶¶ 63-68, 71) and that Apple’s infringement is willful (*e.g.*, *id.* ¶¶ 31-41, 69, 72).

A. TopWire’s Pre-Suit Induced Infringement Pleadings.

TopWire’s induced infringement pleadings consist almost entirely of bare recitations of the claim elements and generalized legal conclusions. *See* FAC ¶¶ 63-68. The closest TopWire’s

¹ TopWire defines the “Accused Products” as “the iPhone X series and all other subsequent iPhone series.” ECF No. 1 ¶ 9. The “Asserted Patent” is U.S. Patent No. 9,859,202. *Id.* ¶ 1.

latest allegations come to pleading facts are: (1) listing retailers that allegedly sell Apple’s products; and (2) generically referencing ordinary product materials—such as “specifications, datasheets, instruction manuals, support materials, developer materials, marketing materials, and user guide materials”—that Apple allegedly published, with a footnote citation (added in the FAC) to a webpage for the “iPhone User Guide” on Apple’s website. *See id.* ¶¶ 64, 65. The entirety of TopWire’s induced infringement allegations are set forth below²:

- “Apple has indirectly infringed and continues to indirectly infringe the ’202 Patent because it has induced third parties, including customers, suppliers, end users, distributors, and/or retailers, to have made, use, offer for sale, sell, and/or import the Accused Products without TopWire’s permission in violation of 35 U.S.C. § 271(b).” *Id.* ¶ 63.
- “Based on information and belief, third parties, including customers, subsidiaries and wholly- or partially-owned companies, end users, distributors, and/or retailers including Best Buy, T-Mobile, AT&T, Verizon, Walmart, among others, have directly infringed the ’202 Patent by having made, using, offering for sale, selling, and/or importing the Accused Products, including, for example, by manufacturing, configuring, using, selling, and operating the Accused Products.” *Id.* ¶ 64.
- “Apple induced these third parties’ direct infringement by advertising, encouraging, instructing, providing support for, and/or operating the Accused Products for or on behalf of such third parties. For example, on information and belief, Apple induces retailers to import, market, offer to sell, and sell the Accused Products within the United States. Also, Apple publishes specifications, datasheets, instruction manuals, support materials, developer materials, marketing materials, and user guide materials that explain, advertise, instruct on, or provide support for the Accused Products.” *Id.* ¶ 65. “For example, see the ‘iPhone User Guide’ (<https://support.apple.com/guide/iphone/welcome/26/ios/26>).” *Id.* ¶ 65 n. 14.
- “Upon information and belief, Apple knew of the ’202 Patent and knew of its infringement of the ’202 Patent, including by way of its receipt of the Notice Letter and service of the original complaint in this lawsuit as described above.” *Id.* ¶66.
- “Apple took the above actions intending to cause infringing acts by these third parties.” *Id.* ¶67.
- “If Apple did not know that the actions it encouraged constituted infringement of the ’202 Patent, Apple was willfully blind as to its inducing infringement of others. Apple

² TopWire’s new allegations in its FAC as compared with its original complaint are underlined.

subjectively believed that there was a high probability that others would infringe the '202 Patent.” *Id.* ¶ 68.

B. TopWire’s Pre-Suit Willfulness Pleadings.

TopWire’s updated pre-suit willfulness pleadings conclude that Apple had knowledge of the alleged infringement—but the pleaded facts demonstrate otherwise. TopWire’s original complaint relied on the Letter, alleging that it notified Apple of its infringement of the Asserted Patent. *See* ECF No. 1 at ¶ 30. TopWire’s original complaint also conceded that Apple responded by requesting claim charts and other information supporting TopWire’s contentions. *Id.* The original complaint did not allege that TopWire ever provided any claim charts or supporting analysis in response. *See generally id.*

After Apple moved to dismiss, TopWire attached the Letter as an exhibit to the FAC and added allegations quoting and describing the Letter. *See, e.g.,* FAC ¶¶ 31-41, Ex. B. But those amendments still do not allege that TopWire provided claim charts or the other information Apple requested. *See id.* ¶¶ 31-41. Although now more lengthy than in the original complaint, the entirety of TopWire’s still-insufficient willfulness allegations are set forth below³:

- “Apple has actual notice of the ’202 Patent before the commencement of this lawsuit. On July 10, 2025, TopWire sent a letter (‘the Notice Letter’) addressed to Apple’s Legal Department. The letter ~~alleges that Apple sells mobile devices that infringe the ’202 Patent. Apple responded to this letter on July 22, 2025 and requested that TopWire provide claim charts and other information to supports its contention~~ is attached hereto as Exhibit B.” *Id.* ¶ 31
- “The Notice Letter stated, in relevant part, ‘It has come to the attention of Topwire that Apple Inc. (‘Apple’) is selling (directly or indirectly), advertising, offering for sale, or importing into the United States devices (e.g., [] hand-held mobile devices) that infringe Topwire’s patents either directly or through intermediaries.’” *Id.* ¶ 32.
- “The Notice Letter stated, in relevant part, ‘the ’202 patent relates to a space connector used to electrically connect two substrates such as those used in hand-held or other smaller form factor electronic devices. For example, it has been brought to Topwire’s

³ TopWire’s new allegations in its FAC as compared with its original complaint are underlined, and deletions are stricken through.

attention that Apple sells a line of mobile devices containing processors that utilize a spacer connector to provide for a reduced overall device thickness, such as the Apple iPhone (e.g., iPhone 11, iPhone 13, and other device versions).’’ *Id.* ¶ 33.

- “The Notice Letter stated, in relevant part, ‘I draw your attention to, for example, claim 1 of the ’202 patent.’’’ *Id.* ¶ 34.
- “The Notice Letter specifically identified the ’202 Patent.’’ *Id.* ¶ 35.
- “The Notice Letter accused Apple of infringing the ’202 Patent.’’ *Id.* ¶ 36.
- “The Notice Letter identified a specific exemplary claim of the ’202 Patent.’’ *Id.* ¶ 37.
- “The Notice Letter stated, in relevant part, ‘Apple sells a line of mobile devices containing processors that utilize a spacer connector to provide for a reduced overall device thickness.’’’ *Id.* ¶ 38.
- “The Notice Letter accused specific exemplary Apple devices of infringing the ’202 Patent.’’ *Id.* ¶ 39.
- “Apple received the Notice Letter prior to the date that the original complaint in this case was filed.’’ *Id.* ¶ 40.
- “Apple responded to the Notice Letter on July 22, 2025 and requested that TopWire provide claim charts and other information to support its contention.’’ *Id.* ¶ 41.
- “Upon information and belief, Apple knew of the ’202 Patent and knew of its infringement of the ’202 Patent, including by way of its receipt of the Notice Letter and service of the original complaint in this lawsuit as described above.’’ *Id.* ¶66.
- “Apple’s infringement has also been and continues to be willful and deliberate. On information and belief, Apple deliberately infringed the Asserted Patent and acted recklessly and in disregard of the Asserted Patent by making, having made, using, importing, and offering for sale products that infringe the Asserted Patent. On information and belief, the risks of infringement were known to Apple and/or were so obvious under the circumstances that the infringement risks should have been known. On information and belief, Apple has no reasonable non-infringement theories. On information and belief, Apple has not attempted any design/sourcing change to avoid infringement. Apple has acted despite an objectively high likelihood that its actions constituted infringement of the Asserted Patent. In addition, this objectively-defined risk was known or should have been known to Apple. On information and belief, Apple has willfully infringed and/or continues to willfully infringe the Asserted Patent. Apple exhibited egregious behavior beyond typical infringement in that, despite being aware of its infringement, Apple did not develop any non-infringement theories, did not attempt any design or sourcing change, and did not otherwise cease its infringement.’’ *Id.* ¶ 69.

C. The Parties’ Meet-And-Confer Pursuant To The Court’s Order Governing Proceedings (“OGP”) Section 7.

Pursuant to the Court’s OGP, Apple asked TopWire to stipulate to dismissal of TopWire’s indirect and willful infringement claims “with leave to re-plead those allegations with specificity if supported by a good faith basis under Rule 11.” Ex. 1 at 2. TopWire asked for exemplary case law supporting Apple’s positions, which Apple promptly provided. *Id.* at 1. TopWire declined to agree to the proposed stipulation. *Id.* at 1.

Apple filed its motion to dismiss TopWire’s complaint. ECF No. 19. Rather than file an opposition, TopWire filed the FAC. ECF No. 22. Pursuant to the OGP, Apple again asked TopWire to stipulate to dismissal of its indirect and willful infringement claims with leave to re-plead. Ex. 2 at 1. TopWire once again refused.

III. LEGAL STANDARDS

A. Motions To Dismiss Under Federal Rule Of Civil Procedure 12(b)(6).

“Rule 12(b)(6) requires that a complaint contain sufficient factual matter to ‘state a claim to relief that is plausible on its face.’” *BillJCo, LLC v. Apple Inc.*, 583 F. Supp. 3d 769, 773-74 (W.D. Tex. 2022) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Ashcroft*, 556 U.S. 662, 678. “To meet this factual plausibility standard, the plaintiff must plead ‘factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged,’ based on ‘more than a sheer possibility that a defendant has acted unlawfully.’” *Atlas Glob. Techs., LLC v. OnePlus Tech (Shenzhen) Co.*, 661 F. Supp. 3d 643, 647 (W.D. Tex. 2023) (quoting *Ashcroft*, 556 U.S. at 678). “[E]very element of each cause of action must be supported by specific factual allegations.” *Carlton v. Freer Inv. Grp.*, 2017 WL 11046201, at *8 (W.D. Tex. Aug. 8, 2017) (quoting *Rearden v. CitiMortgage, Inc.*, 2011 WL

3268307, at *2 (W.D. Tex. July 25, 2011)).

B. Induced Infringement.

To state a claim for induced infringement, the plaintiff must plead facts showing that the defendant: “(1) had actual knowledge of the patent; (2) knowingly induced a third party to infringe the patent; and (3) had specific intent to induce the patent infringement.” *Affinity Labs of Texas, LLC v. Toyota Motor N. Am.*, No. W:13-CV-365, 2014 WL 2892285, at *7 (W.D. Tex. May 12, 2014). Claims of induced infringement “require proof that the defendant’s conduct occurred after the defendant (1) knew of the existence of the asserted patent and (2) knew that a third party’s acts constituted infringement of the patent.” *CTD Networks LLC v. Microsoft Corp.*, No. W-22-CV-01049-XR, 2023 WL 5417141, at *9 (W.D. Tex. Aug. 22, 2023).

C. Willful Infringement.

“To state a claim for willful infringement, a plaintiff must allege facts plausibly showing that the accused infringer: ‘(1) knew of the patent-in-suit; (2) after acquiring that knowledge, it infringed the patent; and (3) in doing so, it knew, or should have known, that its conduct amounted to infringement of the patent.’” *BillJCo*, 583 F. Supp. 3d 769, 774 (quoting *Parity Networks, LLC v. Cisco Sys., Inc.*, 2019 WL 3940952, at *3 (W.D. Tex. July 26, 2019)). “[T]he plaintiff must plausibly allege the ‘subjective willfulness of a patent infringer, intentional or knowing.’” *Atlas Glob. Techs.*, 661 F. Supp. 3d at 647 (quoting *Halo Elecs., Inc. v. Pulse Elecs., Inc.*, 579 U.S. 93, 105 (2016)). “Merely recit[ing] the elements of a willfulness claim” is insufficient. *EMA Electromechanics, Inc. v. Siemens Corp.*, No. 6:21-cv-1001-ADA, 2022 WL 1241967, at *13 (W.D. Tex. Feb. 4, 2022).

IV. ARGUMENT

A. TopWire’s Pre-Suit Induced Infringement Claims Should Be Dismissed.

TopWire’s pre-suit induced infringement claims should be dismissed because TopWire fails to plead facts showing that: (1) Apple had the specific intent to induce infringement; or (2) Apple had knowledge that the vaguely identified third parties’ acts constituted infringement.

1. TopWire Fails To Plead Factual Support For Its Conclusory Allegation That Apple Had The Specific Intent To Induce Infringement.

“To properly state a claim for induced infringement, a complaint must plead facts that plausibly show that the defendant has *specific intent* to cause another party’s direct infringement.” *Joao Control & Monitoring Sys., LLC v. Protect Am., Inc.*, No. 1:14-cv-134-LY, 2015 WL 3513151, at *5 (W.D. Tex. Mar. 24, 2015) (emphasis added). The “mere knowledge of possible infringement by others does not amount to inducement; *specific intent* and action to induce infringement must be proven.” *Network Sys. Techs., LLC v. Qualcomm Inc.*, No. 1:22-CV-01331, 2023 WL 11833572, at *10 (W.D. Tex. July 21, 2023) (quoting *Warner–Lambert Co. v. Apotex Corp.*, 316 F.3d 1348, 1364 (Fed.Cir.2003)) (dismissing claims of pre-suit induced infringement pursuant to Fed. R. Civ. P. 12(b)(6)) (emphasis added). TopWire makes no such showing here.

The FAC does not plead facts showing that Apple specifically intended to cause a third party’s direct infringement before suit. Instead, the FAC relies on conclusory allegations that Apple “advertis[es], encourag[es], [and] instruct[s]” third parties regarding the accused products through ordinary product materials, with a single citation to an “iPhone User Guide” webpage. FAC ¶ 65, n.14. Based on those generic allegations, TopWire concludes that Apple acted “intending to cause infringing acts” by third parties. *Id.* ¶ 67. But such “generalized allegations that [a defendant] induced others to infringe the Asserted Patents through its marketing and sales tactics are [] insufficient.” *Affinity Labs of Texas, LLC*, 2014 WL 2892285, at *7; *see also MONEC*

Holding AG v. Motorola Mobility, Inc., 897 F.Supp.2d 225, 234 (D. Del. 2012) (dismissing indirect infringement claims because conclusory allegations regarding the “Defendant’s conduct in selling, advertising, supplying and instructing its respective customers on the use of the infringing product” were inadequate to show “that Defendants possessed the specific intent to ***encourage another’s infringement***”) (emphasis added).

TopWire’s citation to a general “iPhone User Guide” homepage does not cure those defects. The FAC does not identify any instruction in that material that allegedly encourages infringement, nor does it even provide a single excerpt from the cited webpage. Nor does the FAC plausibly explain how standard consumer-facing instructions for using an iPhone reflect an intent to encourage infringement here, where TopWire accuses a “double-layered logic board with two substrates” that is wholly internal to a device. FAC ¶ 25. That is insufficient to plausibly plead specific intent. *Iron Oak Techs., LLC v. Acer Am. Corp. et al.*, 6:17-cv-00143, 2017 WL 9477677, at *5 (W.D. Tex. Nov. 28, 2017) (dismissing indirect infringement claims where “[t]he claims are more akin to ‘naked assertions devoid of further factual enhancement’ because Iron Oak does not explain in its Complaint how the Warranty contains specific facts regarding Acer’s intent to induce infringement.”).

This Court has dismissed similar inducement allegations premised on generic “instructions on how to use” products coupled with a reference to generalized product materials on a defendant’s website. For example, in *Ikorongo*, this Court dismissed induced infringement claims based on allegations that the “[defendant] provid[es] instructions on how to use its products and/or services in a manner or configuration that infringes one or more claims of the [asserted patent], including those found at www.LG.com and in product literature.” *See Ikorongo Texas LLC v. LG Elecs. Inc.*

et al., No. 6:20-cv-257-ADA, ECF No. 2 (Amended Compl.); ECF No. 78 (Order) (W.D. Tex. March 31, 2021).

Accordingly, because TopWire’s FAC fails to plead the requisite specific intent, TopWire’s claim for pre-suit induced infringement should be dismissed.

2. TopWire Fails To Plead Facts Showing That Apple Knew That The Allegedly Induced Acts Constituted Infringement, Or That Apple Was Willfully Blind.

To properly state a claim for induced infringement, a plaintiff must also plead facts showing that the defendant “knew that the other party’s acts constituted infringement.” *Joao Control*, 2015 WL 3513151, at *5. TopWire pleads no such facts. The FAC does not cure the deficiencies that Apple identified in the original complaint because the FAC fails to add any allegations that Apple knew that any third party’s acts constituted infringement. TopWire’s only “new” allegation is a conclusory assertion that Apple “knew of the ’202 Patent and knew of its infringement.” FAC ¶ 66. But that is not the standard—TopWire must plead facts showing Apple knew that the *other party’s* acts constituted infringement. TopWire fails to plead those facts.

Unable to plead actual knowledge, TopWire resorts to a conditional allegation that, “[i]f Apple did not know that the actions it encouraged constituted infringement of the ’202 Patent, Apple was willfully blind.” FAC ¶ 68. But that cannot satisfy TopWire’s pleading requirements. “A plaintiff who relies on willful blindness to plead knowledge *must identify* in its complaint *affirmative actions* taken by the defendant to avoid gaining actual knowledge,” such as knowledge of infringement. *Kirsch Rsch. & Dev., LLC v. Tarco Specialty Prods., Inc.*, No. 6:20-cv-00318-ADA, ECF No. 61 at 4 (W.D. Tex. Oct. 4, 2021) (rejecting willful blindness allegations regarding knowledge of asserted patent) (emphasis added); *see also GreatGigz Sols., LLC v. Freelancer Ltd.*, No. 6:20-cv-00738-ADA, ECF No. 43 at 13 (W.D. Tex. July 1, 2022) (rejecting willful blindness allegations and explaining that “a willfully blind defendant is one who takes deliberate actions to

avoid confirming a high probability of wrongdoing”) (quoting *Global-Tech Appliances, inc. v. SEB S.A.*, 563 U.S. 754, 769 (2011)). TopWire made no such pleading.

To the contrary, TopWire alleges that it sent the Letter on July 10, 2025, and acknowledged that Apple promptly responded on July 22, 2025 requesting claim charts and other information to evaluate TopWire’s allegations. FAC ¶¶ 31, 41. Far from showing willful blindness and a deliberate attempt to avoid gaining knowledge of any purported infringement, those pleadings actually show that Apple made efforts to understand and investigate TopWire’s allegations.

Accordingly, because TopWire pleads no facts demonstrating that Apple knew the acts it allegedly encouraged constituted infringement, or that Apple was willfully blind, TopWire’s induced infringement claims should be dismissed for this additional independent reason.

B. TopWire’s Pre-Suit Willfulness Claim Should Be Dismissed Because The FAC Fails To Plead Facts Showing That Apple Had Pre-Suit Knowledge of Its Alleged Infringement.

To maintain a claim of willful infringement, a plaintiff must plead facts plausibly showing that the defendant “knew, or should have known, that its conduct amounted to infringement of the patent.” *BillJCo*, 583 F. Supp. 3d 769, 774 (quoting *Parity Networks, LLC v. Cisco Sys., Inc.*, 2019 WL 3940952, at *3 (W.D. Tex. July 26, 2019)). But here, the FAC fails to plead facts sufficient to show that Apple had actual pre-suit knowledge of the alleged infringement and, accordingly, TopWire’s pre-suit willfulness claim should be dismissed.

TopWire’s pre-suit knowledge allegations are centered on the Letter that TopWire allegedly sent to Apple’s Legal Department on July 10, 2025. As Apple explained in its motion to dismiss the original complaint, TopWire’s allegations based on the Letter were deficient for at least two reasons: (1) the Letter was purely performative and failed to provide any explanation of *how* Apple allegedly infringed—an omission underscored by TopWire’s acknowledgment of Apple’s request for claim charts and other supporting information, and by the absence of any

allegation that TopWire ever provided the information that Apple requested; and (2) TopWire did not attach or meaningfully describe the Letter in the original complaint. In its FAC, TopWire attached the Letter and added allegations about its contents. *See, e.g.*, FAC ¶¶ 31-41, 66, Ex. B. But those amendments do not cure the deficiencies—the Letter still did not provide Apple with sufficient notice of any alleged infringement, and the FAC still fails to allege that TopWire provided any additional information (despite Apple’s request) prior to filing suit.

In particular, TopWire alleges that the Letter informed Apple that: (1) “the ’202 patent relates to a spacer connector used to electrically connect two substrates such as those used in handheld or other smaller form factor electronic devices”; (2) “it ha[d] been brought to Topwire’s attention that Apple sells a line of mobile devices containing processors that utilize a spacer connector to provide for a reduced overall device thickness, such as the Apple iPhone (e.g., iPhone 11, iPhone 13, and other device versions)”; and (3) it requested Apple to “draw [its] attention to, for example, claim 1 of the ’202 patent.” FAC ¶¶ 33, 34, Ex. B. But, as TopWire tacitly concedes, the Letter does not provide any claim chart—or any other analysis whatsoever—explaining *how* any accused product infringes. Nor does the Letter even explain what in an iPhone allegedly satisfies the identified patent claim beyond a conclusory assertion that the devices include “processors that utilize a spacer connector to provide for a reduced overall device thickness”—which merely parrots the claim language (e.g., “spacer connector”). FAC ¶ 33. Those allegations do not plausibly establish that Apple knew, or should have known, that its conduct amounted to infringement.

Moreover, TopWire’s allegations actually confirm that its Letter was purely performative, and, as such, failed to provide Apple with any explanation of *how* Apple allegedly infringed. As described above, the FAC concedes that Apple responded to TopWire’s Letter on July 22, 2025

requesting precisely that information—*i.e.*, a “claim chart[] and other information to support [TopWire’s] contention.” *See* FAC ¶ 41. But TopWire does not allege that it ever responded—because it did not. Those facts show that TopWire’s Letter was designed only to provide some threadbare basis to later plead willfulness—not to provide any meaningful notice to Apple of its alleged infringement. Classically, a notice letter provides claim charts or some other analysis attempting to show how a particular product satisfies the claims of the asserted patent. Here, TopWire alleges only that it sent a letter devoid of any infringement analysis, that Apple attempted to engage with TopWire, and that TopWire then sued without another word. That is insufficient for TopWire to maintain its claims of willfulness. *See Bench Walk Lighting LLC v. LG Innotek Co.*, 530 F. Supp. 3d 468, 492 (D. Del. 2021) (finding insufficient a letter that “includes no attempt to describe *how* it is that LGIT is said to be infringing th[e patents that are specifically referenced therein.]”), *R&R adopted*, 530 F. Supp. 3d 468, 477 (D. Del. 2021) (emphasis added).

V. CONCLUSION

For the reasons set forth above, Apple respectfully submits that the Court should dismiss TopWire’s claims of pre-suit induced infringement and pre-suit willful infringement.

Dated: March 9, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record are being served with a copy of the foregoing document via the Court's CM/ECF system per Local Rule CV-5(b)(1) on March 9, 2026.

/s/ Cosmin Maier
Cosmin Maier