

1 Theodore Stevenson III
Texas State Bar No. 19196650
2 tstevenson@mckoolsmith.com
300 Crescent Court, Suite 1500
3 MCKOOL SMITH, P.C.
Dallas, Texas 75201
4 Telephone: (214) 978-4000
Fax: (214) 978-4044

5 Kevin Burgess
6 Texas State Bar No. 24006927
kburgess@mckoolsmith.com
7 Pierre Hubert
Texas State Bar No. 24002317
8 phubert@mckoolsmith.com
MCKOOL SMITH, P.C.
9 300 W. 6th St., Suite 1700
Austin, Texas 78701
10 Telephone: (512) 692-8700
Fax: (512) 692-8744

11 Michael D. Rounds
12 Nevada Bar No. 4734
mrounds@watsonrounds.com
13 Adam K. Yowell
Nevada Bar No. 11748
14 ayowell@watsonrounds.com
WATSON ROUNDS
15 5371 Kietzke Lane
Reno, NV 89511-2083
16 Telephone: (775) 324-4100
Fax: (775) 333-8171

17 **Attorneys for Plaintiff**

18
19
20 **IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA
RENO DIVISION**

21
22 **UNWIRED PLANET LLC, a Nevada limited
liability company,**

23 **Plaintiff,**

24 **v.**

25 **APPLE INC., a California corporation,**

26 **Defendant.**
27
28

CIVIL ACTION NO.

**COMPLAINT FOR
PATENT INFRINGEMENT**

(JURY DEMAND)

1 Plaintiff Unwired Planet LLC files this Original Complaint for Patent Infringement against Apple
2 Inc. (Apple), and alleges as follows:

3 **JURISDICTION**

4 1. This is an action arising under the patent laws of the United States, 35 U.S.C. §
5 101 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6 **VENUE**

7 2. This Court has personal jurisdiction over the Defendant Apple. Apple has
8 conducted and does conduct business within the State of Nevada. Apple, directly or through
9 subsidiaries or intermediaries (including distributors, retailers, and others), ships, distributes,
10 offers for sale, sells, and advertises (including the provision of an interactive web page) its
11 products and/or services in the United States, the State of Nevada, and the District of Nevada.
12 Apple, directly and through subsidiaries or intermediaries (including distributors, retailers, and
13 others), has purposefully and voluntarily placed one or more of its infringing products and/or
14 services, as described below, into the stream of commerce with the expectation that they will be
15 purchased and/or used by consumers in the District of Nevada. These infringing products and/or
16 services have been and continue to be purchased and/or used by consumers in the District of
17 Nevada. Apple has committed acts of patent infringement within the State and District of
18 Nevada.

19 3. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), (c) and (d) and
20 1400(b). A substantial part of the events giving rise to Unwired Planet's claims occurred in the
21 District of Nevada and Apple is subject to personal jurisdiction in the district.

22 **PARTIES**

23 4. Plaintiff Unwired Planet LLC is a Nevada entity having a principal place of
24 business at 226 California Ave., Reno, NV 89509. "Unwired Planet" refers to Plaintiff and its
25 predecessors in interest referred to herein for the patents-in-suit.

26 5. Unwired Planet has a long history of innovative technical contributions, as set
27 forth below, including the patents-at-issue in this lawsuit.

28

1 its browser software and developer tools. These products included Up.Mail (which delivered e-
2 mail to wireless telephones), Up.Organizer (a personal information management application),
3 Up.Web (which allowed subscribers to manage and configure the other programs from their PCs),
4 Up.Browser (a wireless phone browser), and Up.Smart (a PDA software application for wireless
5 phones), among others. By August 1999, 31 network operators across the globe had licensed
6 Phone.com's software. Phone.com flourished, providing its access software to companies around
7 the globe. USA Today called Phone.com "the linchpin for the wireless internet" in a July 2000
8 article, stating that Phone.com's software touched approximately 80 percent of Web-enabled
9 phones at the time. Bloomberg named Alain Rossmann one of the founders of Unwired Planet,
10 among the "Top Entrepreneurs of 1999."

11 12. In 2000, Phone.com merged with Software.com to form Openwave Systems Inc.,
12 the predecessor to the current-day Unwired Planet, in a \$6.4 billion merger. Openwave continued
13 to grow and innovate. By mid-2001, about 97 percent of internet-ready mobile phones in the
14 United States and approximately 75 percent overseas used an Openwave browser. By July 2001
15 Openwave had increased in size to approximately 2,200 employees worldwide, and the company
16 earned revenues of over \$465 million for fiscal year 2001.

17 13. Through its innovation and technological leadership, Openwave was awarded a
18 sizeable portfolio of over 200 patents. Many of these patents disclose and protect the
19 foundational aspects of today's most widely-used mobile technologies, such as mobile internet,
20 location-based services, and e-commerce applications.

21 14. Unfortunately, merely having patents did not protect Openwave from infringing
22 competition. As Openwave's revenues and market share fell, it was forced to downsize its own
23 employees. With the onslaught of infringing competition having forced Openwave out of the
24 market it created, in April 2012 Openwave sold its product businesses, but retained the patents it
25 had been awarded. After selling off its product businesses, Openwave changed its name back to
26 Unwired Planet, Inc., Unwired Planet Inc. is the parent of, and the predecessor in interest of,
27 Plaintiff Unwired Planet, LLC. Unwired Planet retained its patents, representing almost two
28 decades of investment, allowing the company to focus its efforts on licensing its fundamental

1 patent portfolio to the companies whose infringement put it out of the software and service
2 businesses.

3 THE PATENTS

4 15. United States Letters Patent No. 6,317,594 (“the ’594 Patent”), entitled “System
5 and Method for Providing Data to a Wireless Device upon Detection of Activity of the Device on
6 a Wireless Network,” was duly and legally issued to inventors William E. Gossman and Peter J.
7 Hartmaier on Nov. 13, 2001. Plaintiff Unwired Planet owns by assignment the entire right, title,
8 and interest in the ’594 Patent, and is entitled to sue for past and future infringement. A true and
9 correct copy of the ’594 Patent is attached hereto as Exhibit A and incorporated herein by
10 reference.

11 16. United States Letters Patent No. 6,317,831 (“the ’831 Patent”), entitled “Method
12 and Apparatus for Establishing a Secure Connection over a One-way Data Path,” was duly and
13 legally issued to inventor Peter F. King on Nov. 13, 2001. Plaintiff Unwired Planet owns by
14 assignment the entire right, title, and interest in the ’831 Patent, and is entitled to sue for past and
15 future infringement. A true and correct copy of the ’831 Patent is attached hereto as Exhibit B
16 and incorporated herein by reference.

17 17. United States Letters Patent No. 6,321,092 (“the ’092 Patent”), entitled “Multiple
18 Input Data Management for Wireless Location-based Applications,” was duly and legally issued
19 to inventors James Fitch, David L. Hose, and Michael McKnight on Nov. 20, 2001. Plaintiff
20 Unwired Planet owns by assignment the entire right, title, and interest in the ’092 Patent, and is
21 entitled to sue for past and future infringement. A true and correct copy of the ’092 Patent is
22 attached hereto as Exhibit C and incorporated herein by reference.

23 18. United States Letters Patent No. 6,532,446 (“the ’446 Patent”), entitled “Server
24 Based Speech Recognition User Interface for Wireless Devices,” was duly and legally issued to
25 inventor Peter F. King on Mar. 11, 2003. Plaintiff Unwired Planet owns by assignment the entire
26 right, title, and interest in the ’446 Patent, and is entitled to sue for past and future infringement.
27 A true and correct copy of the ’446 Patent is attached hereto as Exhibit D and incorporated herein
28 by reference.

1 19. United States Letters Patent No. 6,647,260 (“the ’260 Patent”), entitled “Method
2 and System Facilitating Web Based Provisioning of Two-Way Mobile Communications
3 Devices,” was duly and legally issued to inventors Steve Dusse, Peter F. King, Bruce V.
4 Schwartz, and Bruce K. Martin, Jr. on November 11, 2003. Plaintiff Unwired Planet owns by
5 assignment the entire right, title, and interest in the ’260 Patent, and is entitled to sue for past and
6 future infringement. A true and correct copy of the ’260 Patent is attached hereto as Exhibit E
7 and incorporated herein by reference.

8 20. United States Letters Patent No. 6,813,491 (“the ’491 Patent”), entitled “Method
9 and Apparatus for Adapting Settings of Wireless Communication Devices in Accordance with
10 User Proximity,” was duly and legally issued to inventor Aldan Martin McKinney on Nov. 2,
11 2004. Plaintiff Unwired Planet owns by assignment the entire right, title, and interest in the ’491
12 Patent, and is entitled to sue for past and future infringement. A true and correct copy of the ’491
13 Patent is attached hereto as Exhibit F and incorporated herein by reference.

14 21. United States Letters Patent No. 7,020,685 (“the ’685 Patent”), entitled “Method
15 and Apparatus for Providing Internet Content to SMS-based Wireless Devices,” was duly and
16 legally issued to inventors David A. Chen and Piyush Patel on Mar. 28, 2006. Plaintiff Unwired
17 Planet owns by assignment the entire right, title, and interest in the ’685 Patent, and is entitled to
18 sue for past and future infringement. A true and correct copy of the ’685 Patent is attached hereto
19 as Exhibit G and incorporated herein by reference.

20 22. United States Letters Patent No. 7,233,790 (“the ’790 Patent”), entitled “Device
21 Capability based Discovery, Packaging and Provisioning of Content for Wireless Mobile
22 Devices,” was duly and legally issued to inventors Rikard M. Kjellberg, Sheng Liang, Tomas G.
23 Lund, William Chan, Ramakrishna Chinta, and Xinbi Chen on Jun. 19, 2007. Plaintiff Unwired
24 Planet owns by assignment the entire right, title, and interest in the ’790 Patent, and is entitled to
25 sue for past and future infringement. A true and correct copy of the ’790 Patent is attached hereto
26 as Exhibit H and incorporated herein by reference.

27 23. United States Letters Patent No. 7,299,033 (“the ’033 Patent”), entitled “Domain-
28 based management of distribution of digital content from multiple suppliers to multiple wireless

1 services subscribers,” was duly and legally issued to inventors Rikard M. Kjellberg, Sheng Liang,
2 Tomas G. Lund, and William Chan. Plaintiff Unwired Planet owns by assignment the entire
3 right, title, and interest in the '033 Patent, and is entitled to sue for past and future infringement.
4 A true and correct copy of the '033 Patent is attached hereto as Exhibit I and incorporated herein
5 by reference.

6 24. United States Letters Patent No. 7,522,927 (“the '927 Patent”), entitled “Interface
7 for Wireless Location Information,” was duly and legally issued to inventors James Fitch, David
8 Hose, and Michael McKnight on Apr. 21, 2009. Plaintiff Unwired Planet owns by assignment the
9 entire right, title, and interest in the '927 Patent, and is entitled to sue for past and future
10 infringement. A true and correct copy of the '927 Patent is attached hereto as Exhibit J and
11 incorporated herein by reference.

12 25. The '594, '831, '092, '446, '260, '491, '685, '790, '033, and '927 Patents
13 (collectively, the Asserted Patents) cover inventions relating to wireless devices, management of
14 wireless devices, management of messages and data for wireless devices, location services, and
15 speech recognition.

16 **CLAIM FOR PATENT INFRINGEMENT**

17 26. Plaintiff Unwired Planet repeats and realleges the allegations in paragraphs 1–25
18 as though fully set forth herein.

19 27. Apple directly infringes one or more claims of each of the Asserted Patents under
20 35 U.S.C. § 271. Apple is making, using, selling, offering for sale, exporting, and/or importing
21 Accused Products and Services which infringe one or more claims of each of the Asserted
22 Patents, as set forth in the table below. Further discovery may reveal additional infringing
23 products and/or models.

24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Asserted Patent	Accused Products and Services
6,317,594	Mobile App Systems and/or Services (including Apple App Store, Apps, Apple Push Notification Service (APNS), iAds, and Location Services including Safari web browser, Apple Maps, Local Search), Servers (including servers supporting the aforementioned Systems and/or Services), and Mobile Devices (including mobile phones, tablets, and music players with the iOS operating system including iPhones, iPads, and iPods)
6,317,831	Mobile App Systems and/or Services (including Apple App Store, Apps, and APNS), Servers (including servers supporting the aforementioned Systems and/or Services), and Mobile Devices (including mobile phones, tablets, and music players with the iOS operating system including iPhones, iPads, and iPods)
6,321,092	Mobile App Systems and/or Services (including iAds, and Location Services including Safari web browser, Apple Maps, Local Search), Servers (including servers supporting the aforementioned Systems and/or Services), and Mobile Devices (including mobile phones, tablets, and music players with the iOS operating system including iPhones, iPads, and iPods)
6,532,446	Mobile App Systems and/or Services (including Siri), Servers (including servers supporting the aforementioned Systems and/or Services), and Mobile Devices (including mobile phones, tablets, and music players with the iOS operating system including iPhones, iPads, and iPods)
6,647,260	Mobile App Systems and/or Services (including iTunes, Apple App Store, and Apps), Servers (including servers supporting the aforementioned Systems and/or Services), and Mobile Devices (including mobile phones, tablets, and music players with the iOS operating system including iPhones, iPads, and iPods)
6,813,491	Mobile Devices (including mobile phones, tablets, and music players with the iOS operating system including iPhones, iPads, and iPods)
7,020,685	Mobile App Systems and/or Services (including Siri), Servers (including servers supporting the aforementioned Systems and/or Services), and Mobile Devices (including mobile phones, tablets, and music players with the iOS operating system including iPhones, iPads, and iPods)
7,233,790	Mobile App Systems and/or Services (including iTunes, Apple App Store, and Apps), Servers (including servers supporting the aforementioned Systems and/or Services), and Mobile Devices (including mobile phones, tablets, and music players with the iOS operating system including iPhones, iPads, and iPods)

1 2 3 4 5	Asserted Patent	Accused Products and Services
6 7 8 9	7,299,033	Mobile App Systems and/or Services (including iTunes, Apple App Store, and Apps), Servers (including servers supporting the aforementioned Systems and/or Services), and Mobile Devices (including mobile phones, tablets, and music players with the iOS operating system including iPhones, iPads, and iPods)
10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	7,522,927	Mobile App Systems and/or Services (including iAds, Location Services including Safari web browser, Apple Maps, Local Search, Find My iPhone, Find My iPad, and Find My Friends), Servers (including servers supporting the aforementioned Systems and/or Services), and Mobile Devices (including mobile phones, tablets, and music players with the iOS operating system including iPhones, iPads, and iPods)

28. Apple indirectly infringes one or more claims of each of the Asserted Patents under 35 U.S.C. § 271(b). Apple has induced and continues to induce its customers and/or users of the Accused Products and services above to infringe one or more claims of the Asserted Patents above. Apple specifically intends for its customers and/or users of the Accused Products and Services above to infringe one or more claims of the Asserted Patents above in the United States because on information and belief, Apple knew of the Asserted Patents and designed the Accused Products and Services such that they would each infringe one or more claims of each of the Asserted Patents if made, used, sold, offered for sale or imported into the United States, and Apple knows that the customers and/or users of the Accused Products and Services will directly infringe one or more claims of the Asserted Patents when those customers and/or users make, use, sell, offer to sell, and/or import into the United States, the Accused Products and Services. In addition, Apple has failed to redesign the Accused Products and Services to cease infringement.

29. Apple indirectly infringes one or more claims of the Asserted Patents by contributory infringement under 35 U.S.C. § 271(c). Apple has contributed to and continues to contribute to the direct infringement of one or more claims of the Asserted Patents by customers and/or users of the Accused Products and Services. Upon information and belief, Apple knew of the Asserted Patents. Apple has sold, offered to sell, and/or imported in and into the United States the Accused Products, which Apple has known to be especially made or adapted for use in infringing the Asserted Patents and which have no substantial non-infringing uses. Apple

1 designed the Accused Products and Services such that they would infringe one or more claims of
2 the Accused Patents if made, used, sold, offered for sale or imported into the United States. The
3 accused technology has no substantial use that does not infringe one or more claims of the
4 Asserted Patents.

5 30. Apple's acts of direct, contributory and induced infringement have caused damage
6 to Unwired Planet, and Unwired Planet is entitled to recover compensatory damages sustained as
7 a result of Apple's wrongful acts. Unless enjoined by this Court, Apple will continue to infringe
8 the Asserted Patents, continuing to damage Unwired Planet and causing irreparable harm.

9 31. Apple has known about each of the Asserted Patents. Moreover, Apple lacks
10 justifiable belief that there is no infringement, or that the infringed claims are invalid, and has
11 acted with objective recklessness in its infringing activity. Apple's infringement is therefore
12 willful, and Unwired Planet is entitled to an award of exemplary damages, attorneys' fees, and
13 costs in bringing this action.

14 **DEMAND FOR JURY TRIAL**

15 Unwired Planet hereby demands a jury for all issues so triable.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Unwired Planet respectfully requests that this Court enter judgment in their favor
18 and grant the following relief:

- 19 A. Adjudge that Apple infringes the Asserted Patents;
- 20 B. Adjudge that Apple's infringement of the Asserted Patents was willful, and that
21 Apple's continued infringement of the Asserted Patents is willful;
- 22 C. Award Unwired Planet damages in an amount adequate to compensate Unwired
23 Planet for Apple's infringement of the Asserted Patents, but in no event less than a
24 reasonable royalty under 35 U.S.C. § 284;
- 25 D. Award enhanced damages by reason of Apple's willful infringement of the
26 Asserted Patents, pursuant to 35 U.S.C. § 284;
- 27 E. Award Unwired Planet pre-judgment and post-judgment interest to the full extent
28 allowed under the law, as well as its costs;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- F. Enter an order finding that this is an exceptional case and awarding Unwired Planet its reasonable attorneys' fees pursuant to 35 U.S.C. § 285;
- G. Enter an injunction enjoining Apple, and all others in active concert with Apple, from further infringement of the Asserted Patents;
- H. Award an accounting for damages;
- I. Award a future compulsory royalty in the event full injunctive relief is not awarded as requested; and
- J. Award such other relief as the Court may deem appropriate and just under the circumstances.

1 Dated: September 19, 2012

Respectfully submitted,

3 /s/ Michael D. Rounds
4 Michael D. Rounds
5 Nevada Bar No. 4734
6 mrounds@watsonrounds.com
7 Adam K. Yowell
8 Nevada Bar No. 11748
9 ayowell@watsonrounds.com
10 WATSON ROUNDS
11 5371 Kietzke Lane
12 Reno, Nevada 89511
13 Telephone: (775) 324-4100
14 Fax: (775) 333-8171

10 Theodore Stevenson III (*)
11 Texas State Bar No. 19196650
12 tstevenson@mckoolsmith.com
13 MCKOOL SMITH, P.C.
14 300 Crescent Court, Suite 1500
15 Dallas, Texas 75201
16 Telephone: (214) 978-4000
17 Fax: (214) 978-4044

14 Kevin Burgess (*)
15 Texas State Bar No. 24006927
16 kburgess@mckoolsmith.com
17 Pierre Hubert (*)
18 Texas State Bar No. 24002317
19 phubert@mckoolsmith.com
20 MCKOOL SMITH, P.C.
21 300 W. 6th St., Suite 1700
22 Austin, Texas 78701
23 Telephone: (512) 692-8700
24 Fax: (512) 692-8744

20 (*) will comply with LR IA 10-2 within 45 days

21 **ATTORNEYS FOR PLAINTIFF**
22 **UNWIRED PLANET LLC.**