

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

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WhitServe LLC,	:	Civil Action No.
	:	
Plaintiff,	:	
	:	
v.	:	JURY DEMAND
	:	
Apple Inc.,	:	
	:	
Defendant.	:	
	:	
	-----X	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff WhitServe LLC alleges as follows for its complaint against Defendant:

Nature of the Action

1. This is a civil action arising under the Patent Laws of the United States, particularly 35 U.S.C. § 271 et seq., and seeking injunctive relief and damages under 35 U.S.C. §§ 283 – 285.

The Parties

2. Plaintiff WhitServe LLC (“WhitServe”) is a limited liability corporation having a place of business at 986 Bedford Street, Stamford, CT 06905-5619, USA.

3. On information and belief, Defendant Apple Inc. (“Apple”) is a California corporation with its principal place of business located at 1 Infinite Loop, Cupertino, CA 95014.

Jurisdiction and Venue

4. This action is for damages and injunctive relief from patent infringement and arises under the United States Patent Laws, particularly 35 U.S.C. §271 et seq. Subject matter jurisdiction is

based on 28 U.S.C. §1338. Venue is based on 28 U.S.C. §1391(c).

5. On information and belief, Apple transacts and does business in this District by, *inter alia*, having offered for sale, having sold, continuing to offer for sale, and/or continuing to sell infringing products and/or services in this District.

6. On information and belief, Apple maintains the retail store Apple Store Stamford at Stamford Town Center, Stamford, CT 06901, which is located in this District.

7. On information and belief, Apple maintains the retail store Apple Store Greenwich Avenue at 356 Greenwich Ave., Greenwich, CT 06830, which is located in this District.

8. On information and belief, Apple maintains the retail store Apple Store Danbury Fair Mall at Seven Backus Avenue, Danbury, CT 06810, which is located in this District.

9. On information and belief, Apple maintains the retail store Apple Store Westfarms at 500 Westfarms Mall, Farmington, CT 06032, which is located in this District.

10. On information and belief, Apple maintains the retail store Apple Store New Haven at 65 Broadway, New Haven, CT 06511, which is located in this District.

11. On information and belief, Apple maintains the interactive website [www. Apple.com](http://www.Apple.com), which is visited by customers and potential customers in this District.

12. Venue is proper with regard to Apple because it has submitted itself to personal jurisdiction in this District by its systematic and continuous contacts with this District.

The Patent

13. WhitServe is the owner of the entire right, title and interest in and to United States Patent No. 7,921,139 ("the '139 patent"), entitled "System for sequentially opening and displaying files in a directory," which was duly and legally issued by the United States Patent and Trademark Office on

April 5, 2011 in the name of the inventor, Wesley W. Whitmyer, Jr.

14. The '139 patent has been non-exclusively licensed and companies have recognized the value of WhitServe's patented technology in their businesses.

COUNT I – Infringement of the '139 Patent

15. On information and belief, Apple has been and still is directly infringing, contributing to and/or inducing infringement of the '139 patent pursuant to 35 U.S.C. § 271 *et seq.* by making, selling, offering for sale, importing, supplying, supplying a component of, causing the supply of a component of, importing the product of and/or using services and related products and/or services without the authorization of WhitServe.

16. On information and belief, Apple maintains the interactive website www.Apple.com, and maintains several retail stores in CT, where it has been and still is offering its products and services for sale, including computers with Mac OS X Leopard, Mac OS X Snow Leopard, Mac OS X Lion and Mac OS X Mountain Lion.

17. On information and belief, Apple's software products include a function identified as Quick Look.

18. On information and belief, Quick Look was a feature introduced in Mac OS X Leopard to "instantly preview almost any file, and even play media files, without opening an application" and was carried over into Mac OS X Snow Leopard, Mac OS X Lion and Mac OS X Mountain Lion.

19. On information and belief, Apple provides its customers manuals, online tutorials and live in store training workshops on its software products, including Quick Look. On information and belief, customers regularly use Quick Look to review their files.

20. On information and belief, Apple's Mac OS X Leopard and Mac OS X Snow Leopard infringes claims 1-7, 10, 12-14, 16-20 and 23 of the '139 patent as alleged below. On information and belief, Apple's Mac OS X Lion and Mac OS X Mountain Lion infringes claims 1-7, 10-20 and 22-23 of the '139 patent as alleged below. The allegations are based on WhitServe's current understanding of Apple's products and WhitServe reserves to the right to amend its allegations as more information becomes available to it.

21. With regard to claim 1 of the '139 patent, on information and belief, Quick Look is a system for sequentially opening and displaying files in a directory.

22. With regard to claim 1 of the '139 patent, on information and belief, Quick Look is software that runs on a processor.

23. With regard to claim 1 of the '139 patent, on information and belief, Quick Look allows a user to create directories in which a plurality of electronic files can be stored and arranged in an order.

24. With regard to claim 1 of the '139 patent, on information and belief, Quick Look receives a request to open and display one of a plurality of electronic files in a directory.

25. With regard to claim 1 of the '139 patent, on information and belief, Quick Look receives a next file request.

26. With regard to claim 1 of the '139 patent, on information and belief, Quick Look opens and displays the next file in the order from the directory upon receiving the next file request.

27. With regard to claim 1 of the '139 patent, on information and belief, Quick Look closes one or more of the plurality of electronic files based on a predetermined number of next file opening requests.

28. With regard to claim 2 of the '139 patent, on information and belief, Quick Look displays a last opened one of the plurality of electronic files upon receiving a previous file request.

29. With regard to claim 3 of the '139 patent, on information and belief, Quick Look retrieves the last opened one from a buffer.

30. With regard to claim 4 of the '139 patent, on information and belief, Quick Look receives another next file request and opens a subsequent next file in the directory upon receiving the another next file request.

31. With regard to claim 5 of the '139 patent, on information and belief, Quick Look receives a request to change the directory to a second directory and opens a next file in the second directory.

32. With regard to claim 6 of the '139 patent, on information and belief, Quick Look has a file selector module displayable on a user interface for receiving the next request.

33. With regard to claim 7 of the '139 patent, on information and belief, Quick Look's file selector module includes at least one of a next file option and a previous file option.

34. With regard to claim 10 of the '139 patent, on information and belief, a user can make a plurality of subdirectories within a directory and Quick Look receives a directory selection indicative to change the directory to a subdirectory.

35. With regard to claim 11 of the '139 patent, on information and belief, Quick Look provided with OS X Lion and OS X Mountain Lion includes an "Open with" application button which allows each of the first one of the plurality of files and the next one of the plurality of files is opened via an application corresponding to the particular file.

36. With regard to claim 12 of the '139 patent, on information and belief, Quick Look opens two or more next files in a directory.

37. With regard to claim 13 of the '139 patent, on information and belief, Quick Look is a system for sequentially opening and displaying files in a directory.

38. With regard to claim 13 of the '139 patent, on information and belief, Quick Look allows a user to create at least one directory comprising a plurality of electronic files arranged in an order.

39. With regard to claim 13 of the '139 patent, on information and belief, Quick Look accesses files on at least one computer and opens and displays at least one of the plurality of electronic files via a user interface.

40. With regard to claim 13 of the '139 patent, on information and belief, Quick Look has a file selector module for receiving a next file request.

41. With regard to claim 13 of the '139 patent, on information and belief, Quick Look opens and displays a next file in the order from said at least one directory via the user interface upon receiving the next file request.

42. With regard to claim 13 of the '139 patent, on information and belief, Quick Look closes one or more opened ones of the plurality of files after a predetermined number of next file opening requests.

43. With regard to claim 14 of the '139 patent, on information and belief, Quick Look's file selector module is displayed on a user interface of the at least one computer and the file selector module includes at least one of a next file option and a previous file option.

44. With regard to claim 15 of the '139 patent, on information and belief, Quick Look provided with OS X Lion and OS X Mountain Lion includes an "Open with" that allows the next file to be opened in an application corresponding to a file type of the next file.

45. With regard to claim 16 of the '139 patent, on information and belief, Quick Look opens two or more next files in said at least one directory upon receiving the next file request.

46. With regard to claim 17 of the '139 patent, on information and belief, Quick Look's file

selector module receives a previous file request and displays an opened one of the plurality of electronic files upon receiving the previous file request.

47. With regard to claim 18 of the '139 patent, on information and belief, Quick Look opens and displays the next file.

48. With regard to claim 19 of the '139 patent, on information and belief, Quick Look provides a method for sequentially opening and displaying files in a directory.

49. With regard to claim 19 of the '139 patent, on information and belief, Quick Look receives a user request to access at least one directory, the directory including a plurality of electronic files arranged in an order.

50. With regard to claim 19 of the '139 patent, on information and belief, Quick Look receives a user input to a file selector module indicative of a request to open and display at least one of the plurality of the files.

51. With regard to claim 19 of the '139 patent, on information and belief, Quick Look opens and displays a first file of the plurality of electronic files via a user interface.

52. With regard to claim 19 of the '139 patent, on information and belief, Quick Look receives a user input to the file selector module indicative of a request to open a next one of the plurality of electronic files.

53. With regard to claim 19 of the '139 patent, on information and belief, Quick Look opens and displays a next file in the order from the at least one directory via the user interface.

54. With regard to claim 19 of the '139 patent, on information and belief, Quick Look closes the first file upon receiving a predetermined number of requests to open a next one.

55. With regard to claim 20 of the '139 patent, on information and belief, Quick Look works with two or more file types.

56. With regard to claim 22 of the '139 patent, on information and belief, Quick Look provided with OS X Lion and OS X Mountain Lion includes an "Open with" application button which opens the plurality of electronic files in an application corresponding to its file type.

57. With regard to claim 23 of the '139 patent, on information and belief, Quick Look redisplay the first file upon receiving a user input to the file selector module indicative of a previous file request.

58. Apple has been on notice of its infringement of the '139 Patent at least as early as November 30, 2011. Thus, with full knowledge, and without the consent of WhitServe, Apple is using WhitServe's technology without payment to WhitServe.

59. Apple's infringement continues in willful disregard of WhitServe's rights, making this case exceptional under 35 U.S.C. § 285.

60. WhitServe has been damaged by Apple's infringement of the '139 patent and claims all damages including, but not limited to, reasonable royalties.

61. The harm to WhitServe resulting from the infringing acts of Apple is irreparable, continuing, not fully compensable by money damages, and will continue unless enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, WhitServe prays for judgment as follows:

- A. That a preliminary and permanent injunction be entered against defendant, its officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with it who receive actual notice of the order by personal service or otherwise, from any further infringement of the '139 patent.
- B. That WhitServe be awarded its damages, suffered by reason of the infringement by defendant, together with prejudgment interest.
- C. That WhitServe be awarded enhanced damages pursuant to 35 U.S.C. § 284.
- D. That this is an exceptional case pursuant to 35 U.S.C. § 285.
- E. That WhitServe be awarded its attorneys' fees and costs.
- F. That WhitServe be awarded any other and further relief that this Court may deem just and proper or otherwise permitted by law.

JURY DEMAND

WhitServe demands a trial by jury on all claims and issues so triable.

Respectfully submitted,
WhitServe LLC

Date: October 25, 2012

By: /s/ Walter B. Welsh
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