

1 Jill F. Kopeikin (State Bar No. 160792)
2 Valerie M. Wagner (State Bar No. 173146)
3 GCA LAW PARTNERS LLP
4 2570 W. El Camino Real, Suite 510
5 Mountain View, CA 94040
6 Telephone: (650) 428-3900
7 Fax: (650) 428-3901
8 jkopeikin@gcalaw.com
9 vwagner@gcalaw.com

10 Attorneys for Plaintiff
11 CYWEE GROUP LTD.

12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

14 CYWEE GROUP LTD.,
15 *Plaintiff,*

16 APPLE INC.,
17 *Defendant.*

CASE NO. _____

CYWEE'S ORIGINAL COMPLAINT
FOR PATENT INFRINGEMENT

DEMAND FOR JURY TRIAL

18 Plaintiff CyWee Group Ltd. ("Plaintiff" or "CyWee") by and through its
19 undersigned counsel, files this Original Complaint against Defendant Apple, Inc.
20 ("Defendant" or "Apple) as follows:

21 **THE PARTIES**

22 1. CyWee Group Ltd. is a corporation existing under the laws of the
23 British Virgin Islands with a principal place of business at 3F, No.28, Lane 128, Jing
24 Ye 1st Road, Taipei, Taiwan 10462.

25 2. CyWee is a world leading technology company that focuses on building
26 products and services for consumers and businesses. CyWee is widely known as
27 having one of the most significant patent portfolios in the industry, and is considered
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1 a market leader in its core development areas of motion processing, wireless high
2 definition video delivery, and facial tracking technology.

3 3. Upon information and belief, Defendant Apple Inc. is a corporation
4 organized under the laws of California, and its principal place of business is 1
5 Infinite Loop, Cupertino, California 95014. Apple's registered agent for service of
6 process is CT Corporation System, 818 West Seventh St., 2nd Floor, Los Angeles,
7 California 90017.

8 JURISDICTION AND VENUE

9 4. This action arises under the patent laws of the United States, 35 U.S.C.
10 § 1 *et seq.*, including 35 U.S.C. § 271, 281, 283, 284, and 285. This Court has
11 subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

12 5. This Court has personal jurisdiction over Defendant because Defendant
13 resides and has its primary place of business in Cupertino, California, within this
14 District. This Court also has personal jurisdiction over Defendant because Defendant
15 has purposefully and voluntarily availed itself of the privilege of doing business in
16 the United States, the State of California, and the Northern District of California by
17 continuously and systematically placing goods into the stream of commerce with the
18 expectation that they will be purchased by consumers in the Northern District of
19 California. Upon information and belief, Defendant has committed acts of patent
20 infringement within the State of California and, more particularly, within the
21 Northern District of California.

22 6. Venue is proper in the Northern District of California pursuant to 28
23 U.S.C. §§ 1391(b) and 1400(b), in that, Defendant resides in this District, has a
24 regular and established place of business in this District, and has committed acts of
25 infringement in this District.

1 **INTRADISTRICT ASSIGNMENT**

2 7. This action is an intellectual property action subject to district-wide
3 assignment.

4 **PATENT INFRINGEMENT OF U.S. PATENT NO. 8,552,978**

5 8. Plaintiff repeats and re-alleges each and every allegation of paragraphs
6 1-7 as though fully set forth herein.

7 9. U.S. Patent No. 8,552,978 (the '978 Patent"), titled "3D Pointing
8 Device and Method for Compensating Rotations of the 3D Pointing Device
9 Thereof," was duly and legally issued by the United States Patent and Trademark
10 Office on October 8, 2013 to Cywee Group Limited, as assignee of named inventors
11 Zhou Ye, Chin-Lung Li, Shun-Nan Liou. A true and correct copy of the '978 Patent
12 is attached hereto as Exhibit A.

13 10. CyWee is the owner of all right, title, and interest in and to the '978
14 Patent with full right to bring suit to enforce the patent, including the right to recover
15 for past infringement damages.

16 11. Each and every claim of the '978 Patent is valid and enforceable and
17 each enjoys a statutory presumption of validity separate, apart, and in addition to the
18 statutory presumption of validity enjoyed by every other of its claims. 35 U.S.C. §
19 282.

20 12. Apple has at no time, either expressly or impliedly, been licensed under
21 the '978 Patent.

22 13. The '978 Patent describes and claims, *inter alia*, 3D pointing devices
23 and methods for compensating rotations of the 3D pointing device.

24 14. CyWee is informed and believes, and thereupon alleges, that Apple,
25 without authorization or license, has been, and is currently directly or indirectly
26 infringing one or more claims of the '978 Patent in violation of 35 U.S.C. § 271,
27 including as stated below.

1 15. CyWee is informed and believes, and thereupon alleges, that Apple has
2 directly infringed, literally and/or under the doctrine of equivalents, and will
3 continue to directly infringe each patent claim of the '978 Patent by making, using,
4 selling, offering to sell, and/or importing into the United States products that
5 embody or practice the apparatus and/or method covered by one or more claims of
6 the '978 Patent, including but not limited to the Defendant's iPhone 5s, iPad Air,
7 and iPad mini (2nd generation) (collectively referred to as "Accused Products").

8 16. Apple has had knowledge of and notice of the '978 Patent and Apple's
9 infringement of the '978 Patent since at least March 31, 2014, and through the filing
10 and service of this Complaint, and despite this knowledge continues to infringe.

11 17. CyWee is informed and believes, and thereupon alleges, that Apple
12 actively induces customers to infringe the '978 Patent in violation of 35 U.S.C. §
13 271(b) by instructing and otherwise encouraging infringement and by providing
14 infringing mobile devices and 3D pointing technologies preinstalled in the Accused
15 Products. For example, Apple provides application developers a Core Motion
16 Framework Reference for Apple's iOS platform to enable end users to enable the
17 Accused Products' hardware to determine current position or motion associated with
18 the device. Consumers of the Accused Products then directly or jointly infringe the
19 '978 Patent.

20 18. CyWee is informed and believes, and thereupon alleges, that Apple
21 knowingly offers to sell or sells within the United States or imports into the United
22 States the Accused Products that contain infringing 3D pointing technologies
23 preinstalled. The 3D pointing technologies are especially made or especially adapted
24 for use in infringement of the '978 Patent. The Accused Products are not staple
25 articles or commodities of commerce suitable for substantial non-infringing use and
26 constitute a material part of the invention claimed by the '978 Patent at least because
27 Apple's 3D pointing technologies in the Accused Products work in conjunction with
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1 mobile applications in a manner that infringes the '978 Patent. Therefore, Apple is
2 also contributing to the direct infringement of the '978 Patent by the users of these
3 products.

4 19. Defendant's acts of infringement have caused and will continue to
5 cause substantial and irreparable damage to CyWee.

6 20. As a result of the infringement of the '978 Patent by Defendant, CyWee
7 has been damaged. CyWee is, therefore, entitled to such damages pursuant to 35
8 U.S.C. § 284 in an amount that presently cannot be pled but that will be determined
9 at trial.

10 **PATENT INFRINGEMENT OF U.S. PATENT NO. 8,441,438**

11 21. Plaintiff repeats and re-alleges each and every allegation of paragraphs
12 1-7 as though fully set forth herein.

13 22. U.S. Patent No. 8,441,438 (the '438 Patent"), titled "3D Pointing
14 Device and Method for Compensating Movement Thereof," was duly and legally
15 issued by the United States Patent and Trademark Office on May 14, 2013 to Cywee
16 Group Limited, as assignee of named inventors Zhou Ye, Chin-Lung Li, Shun-Nan
17 Liou. A true and correct copy of the '438 Patent is attached hereto as Exhibit B.

18 23. CyWee is the owner of all right, title, and interest in and to the '438
19 Patent with full right to bring suit to enforce the patent, including the right to recover
20 for past infringement damages.

21 24. Each and every claim of the '438 Patent is valid and enforceable and
22 each enjoys a statutory presumption of validity separate, apart, and in addition to the
23 statutory presumption of validity enjoyed by every other of its claims. 35 U.S.C. §
24 282.

25 25. Apple has at no time, either expressly or impliedly, been licensed under
26 the '438 Patent.

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1 26. The '438 Patent describes and claims, *inter alia*, 3D pointing devices
2 and methods for compensating movement.

3 27. CyWee is informed and believes, and thereupon alleges, that Apple,
4 without authorization or license, has been, and is currently directly or indirectly
5 infringing one or more claims of the '438 Patent in violation of 35 U.S.C. § 271,
6 including as stated below.

7 28. CyWee is informed and believes, and thereupon alleges, that Apple has
8 directly infringed, literally and/or under the doctrine of equivalents, and will
9 continue to directly infringe each patent claim of the '438 Patent by making, using,
10 selling, offering to sell, and/or importing into the United States the Accused
11 Products that embody or practice the apparatus and/or method covered by one or
12 more claims of the '438 Patent, including but not limited to the Accused Products.

13 29. Apple has had knowledge of and notice of the '438 Patent and Apple's
14 infringement of the '438 Patent since at least March 31, 2014, and through the filing
15 and service of this Complaint and despite this knowledge continues to infringe.

16 30. CyWee is informed and believes, and thereupon alleges, that Apple
17 actively induces customers to infringe the '438 Patent in violation of 35 U.S.C. §
18 271(b) by instructing and otherwise encouraging infringement and by providing
19 infringing mobile devices and 3D pointing technologies preinstalled in the Accused
20 Products. For example, Apple provides application developers a Core Motion
21 Framework Reference for Apple's iOS platform to enable end users to enable the
22 Accused Products' hardware to determine current position or motion associated with
23 the device. Consumers of the Accused Products then directly or jointly infringe the
24 '438 Patent.

25 31. CyWee is informed and believes, and thereupon alleges, that Apple
26 knowingly offers to sell or sells within the United States or imports into the United
27 States the Accused Products that contain infringing 3D pointing technologies
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1 preinstalled. The 3D pointing technologies are especially made or especially adapted
2 for use in infringement of the '438 Patent. The Accused Products are not staple
3 articles or commodities of commerce suitable for substantial non-infringing use and
4 constitute a material part of the invention claimed by the '438 Patent at least because
5 Apple's 3D pointing technologies in the Accused Products work in conjunction with
6 mobile applications in a manner that infringes the '438 Patent. Therefore, Apple is
7 also contributing to the direct infringement of the '438 Patent by the users of these
8 products.

9 32. Defendant's acts of infringement have caused and will continue to
10 cause substantial and irreparable damage to CyWee.

11 33. As a result of the infringement of the '438 Patent by Defendant, CyWee
12 has been damaged. CyWee is, therefore, entitled to such damages pursuant to 35
13 U.S.C. § 284 in an amount that presently cannot be pled but that will be determined
14 at trial.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff prays for entry of judgment against Defendant as
17 follows:

- 18 A. A judgment that Defendant has infringed and continues to infringe the
19 '978 Patent and '438 Patent, directly and/or indirectly by way of
20 inducing or contributing to infringement of such patents as alleged
21 herein;
- 22 B. That Defendant provide to CyWee an accounting of all gains, profits
23 and advantages derived by Defendant's infringement of the '978 Patent
24 and '438 Patent, and that CyWee be awarded damages adequate to
25 compensate them for the wrongful infringement by Defendant,
26 including treble damages for willful infringement, in accordance with
27 35 U.S.C. § 284;

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- C. That CyWee be awarded any other supplemental damages and interest on all damages, including, but not limited to attorney fees available under 35 U.S.C. § 285;
- D. That the Court permanently enjoin Defendant and all those in privity with Defendant from making, having made, selling, offering for sale, distributing and/or using products that infringe the '978 Patent and '438, including the Accused Products, in the United States; and
- E. That CyWee be awarded such other and further relief and all remedies available at law.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), CyWee hereby demands a trial by jury on all issues triable to a jury.

Dated: April 22, 2014

Respectfully submitted,

/s/ Jill F. Kopeikin

Jill F. Kopeikin (State Bar No. 160792)
jkopeikin@gcalaw.com
GCA LAW PARTNERS LLP
2570 W. El Camino Real, Suite 510
Mountain View, CA 94040
Telephone: (650) 482-3900
Fax: (650) 428-3901

Counsel for Plaintiff CYWEE GROUP LTD.