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19
20 **UNITED STATES DISTRICT COURT**
21 **NORTHERN DISTRICT OF CALIFORNIA**
22

23 APPLE INC.,
24 Plaintiff,
25 v.
26 ALIVECOR, INC.
27 Defendant.

CASE NO.
**COMPLAINT FOR PATENT
INFRINGEMENT**
DEMAND FOR JURY TRIAL

COMPLAINT

1
2 1. This is an action about innovation and the opportunism and profiteering that threatens it.
3 Apple Inc. (“Apple”) is a global technology company that has, for decades, introduced cutting-edge,
4 life-changing advancements in electronic healthcare that are relied upon by millions on a daily basis to
5 better their lives.

6 2. Since its founding almost 50 years ago, Apple has held its place as an American and
7 worldwide leader by developing innovative technology, investing billions in domestic research and
8 development of technologies in a wide variety of industries, and producing devices and applications that
9 are at the core of today’s society. In particular, Apple has long been an industry leader in cutting-edge
10 electronic healthcare solutions and has invested its considerable expertise and creativity in developing
11 such systems and bringing them to the public.

12 3. Among such advances, Apple has developed and patented a wide array of novel health
13 and fitness technologies, each of which provides users with accurate and highly accessible technology-
14 powered insights empowering them to live a healthier life.¹ These include numerous critical, ground-
15 breaking ECG technologies provided by the Apple Watch and watchOS. Apple began developing and
16 patenting these technologies over a decade ago. For example, in 2008, Apple had already developed and
17 filed for patent protection on specific and foundational technologies pertaining to embedded heart rate
18 and electric cardiac activity monitors. Apple’s massive commitments to innovation in the healthcare
19 industry led to critical developments in key technologies, including those related to sensing irregular
20 heart rhythms that may be suggestive of atrial fibrillation (AFib), capturing an electrocardiogram
21 (“ECG” or “EKG”),² cycle tracking features for women (watchOS 6),³ blood oxygen saturation

23 ¹ See Exhibit 1, “How Apple Is Empowering People With Their Health Information,” (July 20, 2022),
24 [https://www.apple.com/newsroom/2022/07/how-apple-is-empowering-people-with-their-health-](https://www.apple.com/newsroom/2022/07/how-apple-is-empowering-people-with-their-health-information)
information.

25 ² See Exhibit 2, “Apple Watch Series 4: Beautifully redesigned with breakthrough communication,
26 fitness and health capabilities,” (Sept. 12, 2018),
27 [https://www.apple.com/newsroom/2018/09/redesigned-apple-watch-series-4-revolutionizes-](https://www.apple.com/newsroom/2018/09/redesigned-apple-watch-series-4-revolutionizes-communication-fitness-and-health)
communication-fitness-and-health; see also Exhibit 3, “ECG app and irregular heart rhythm
28 notification available today on Apple Watch,” (Dec. 6, 2018), available at
[https://www.apple.com/newsroom/2018/12/ecg-app-and-irregular-heart-rhythm-notification-](https://www.apple.com/newsroom/2018/12/ecg-app-and-irregular-heart-rhythm-notification-available-today-on-apple-watch/)
available-today-on-apple-watch/

1 measurement (watchOS 7),⁴ respiratory tracking during sleep, and fall detection (watchOS 8),⁵ to name
2 just a few. These advancements also include an integrated sensor in an electronic device that can
3 measure a user’s heartbeat, heartrate, and other signals generated by the user’s heart, which are the
4 subjects of the ’257 patent-in-suit. Apple also improved upon this design with sealed button systems,
5 which are the subjects of the ’619 patent-in-suit, as well as user interfaces for monitoring such health
6 data, which are the subjects of the ’533 patent-in-suit. Apple also developed the ability to aggregate
7 such data for a user’s healthcare providers to review, which is the subject of the ’898 patent-in-suit. It is
8 innovations such as these and the millions of dollars Apple invested in the research and development of
9 these innovations—including the many features surrounding the Apple Watch and Apple’s Health
10 App—that have bettered the lives of millions who use Apple’s healthcare devices and pioneered the
11 personal health advancements that AliveCor attempts to co-opt through its litigation campaign against
12 Apple.

13 4. This case is about a far different story involving AliveCor, Inc. (“AliveCor”) and its
14 brazen infringement of Apple’s technology—technology that Apple developed years before AliveCor
15 even came into existence. Founded in 2010, AliveCor’s business has focused on the sale of portable
16 ECG devices which rely on numerous technologies in Apple’s iPhone and/or Watch to provide ECG
17 information to AliveCor’s customers. Rather than develop its technology from scratch, however,
18 AliveCor resorted to including the very technology that Apple created and patented. This was no
19 accident: AliveCor has long known of Apple’s patented technology, as many of AliveCor’s own patents
20 cite to many of Apple’s patented innovations.

21 5. But AliveCor’s business has not been commercially successful, and has instead been
22 propped up by funding from private investors. AliveCor has responded to its own failures in the market

24 ³ See Exhibit 4, “WatchOS 6 Advances Health And Fitness Capabilities for Apple Watch,” (June 3,
25 2019), <https://www.apple.com/newsroom/2019/06/watchos-6-advances-health-and-fitness-capabilities-for-apple-watch>.

26 ⁴ See Exhibit 5, “Apple Watch Series 6 Delivers Breakthrough Wellness And Fitness Capabilities,”
27 (Sept. 15, 2020), <https://www.apple.com/newsroom/2020/09/apple-watch-series-6-delivers-breakthrough-wellness-and-fitness-capabilities>.

28 ⁵ See Exhibit 6, “WatchOS 8 Is Available Today,” (Sept. 20, 2021),
<https://www.apple.com/newsroom/2021/09/watchos-8-is-available-today>

1 through opportunistic assertions of its patents against Apple. For example, AliveCor filed a complaint
2 before the International Trade Commission (“Commission”), seeking to stop Apple from importing its
3 products into the United States based on its assertion of patents covering unimportant alleged
4 improvements to ECG devices.⁶ And while an Administrative Law Judge issued an Initial
5 Determination in that action finding a violation—a finding that Apple is presently contesting before the
6 Commission—Apple now brings this action to set the record straight as to who is the real pioneer and to
7 stop AliveCor’s rampant infringement that unlawfully appropriates Apple’s intellectual property. Apple
8 is the pioneering innovator, having researched, developed, and patented core, foundational technologies
9 before AliveCor came into existence. AliveCor’s litigation campaign is nothing more than an attempt to
10 siphon from the success of Apple technologies it did not invent, all the while selling products that rely
11 on foundational ECG innovations that Apple patented years before AliveCor came to be.

12 NATURE OF THE CASE

13 6. Apple brings claims under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, for
14 the infringement of the following United States patents: U.S. Patent Nos. 10,076,257 (the “257
15 Patent”); 10,270,898 (the “898 Patent”); 10,866,619 (the “619 Patent”); and 10,568,533 (the “533
16 Patent”) (collectively, the “Asserted Patents”).

17 PARTIES

18 7. Apple is an American technology company organized under the laws of California,
19 having its principal place of business at One Apple Park Way, Cupertino, CA 95014. From its founding
20 in 1976, Apple has been the renowned global leader in consumer electronics products, including being
21 among the first manufacturers of personal computers, and later expanding into other technologies,
22 pioneering smart mobile communication devices, digital music players, notebooks, and wearables, as
23 well as related software, services, accessories, and networking solutions.

24 8. AliveCor is a company organized and existing under the laws of Delaware with its
25 principal place of business at 444 Castro Street, Suite 600, Mountain View, CA 94041.

26
27 ⁶ *In re Certain Wearable Elec. Devices with ECG Functionality and Components Thereof*, Inv. No.
28 337-TA-1266 (USITC). AliveCor also initiated a district court suit against Apple, *AliveCor, Inc. v. Apple Inc.*, C.A. No. 6:20-cv-1112 (W.D. Tex. 2021), which is currently stayed.

1 **JURISDICTION AND VENUE**

2 9. This civil action asserts claims arising under the Patent Laws of the United States, 35
3 U.S.C. § 1 *et seq.* This Court therefore has subject matter jurisdiction over this action pursuant to 28
4 U.S.C. §§ 1331 and 1338(a).

5 10. The Court has personal jurisdiction over AliveCor because AliveCor maintains its
6 principal place of business in this District at 444 Castro Street, Suite 600, Mountain View, CA 94041,
7 and from that location conducts and/or directs the acts accused of infringement in this action. Moreover,
8 AliveCor conducts business in this District by shipping, distributing, offering for sale, selling, and
9 advertising (including the provision of an interactive web page) its products and services in both the
10 State of California and in this District. AliveCor has, either directly or through intermediaries,
11 purposefully and voluntarily placed one or more of its infringing products and/or services into the
12 stream of commerce with the intention and expectation that they will be purchased and used by
13 customers in this District.

14 11. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b) because
15 AliveCor regularly conducts business within this District, has a regular and established place of business
16 in this District, and has committed acts of infringement within this District.

17 **APPLE’S PATENTED TECHNOLOGIES**

18 **The ’257 Patent**

19 12. The ’257 Patent is titled “Seamlessly Embedded Heart Rate Monitor” and duly and
20 legally issued on September 18, 2018. The ’257 Patent issued from U.S. Patent Application Serial No.
21 14/136,658 filed on December 20, 2013. A true and accurate copy of the ’257 Patent is attached hereto
22 as Exhibit 7.

23 13. Apple is the owner, by valid assignment, of the entire right, title, and interest in and to the
24 ’257 Patent. Prior to issuance, the ’257 Patent inventors assigned all right, title, and interest in U.S.
25 Patent Application Serial No. 14/136,658 to Apple. This assignment is recorded at the United States
26 Patent and Trademark Office (“USPTO”) at Reel/Frame 022149/0581 and a true and accurate copy is
27 attached hereto as Exhibit 8.

28 14. The ’257 Patent is valid, enforceable, and is currently in full force and effect.

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