

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BLIX INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 19-1869-LPS
)	
APPLE, INC.,)	
)	
Defendant.)	
)	
)	

SECOND AMENDED COMPLAINT

Of Counsel:

Daniel J. Melman
 Guy Yonay
 Sarah Benowich
 Shaoul Sussman
 PEARL COHEN ZEDEK LATZER BARATZ LLP
 Times Square Tower
 7 Times Square, 19th Floor
 New York, NY 10036
 (646) 878-0800

Mark C. Rifkin
 Thomas H. Burt
 WOLF HALDENSTEIN ADLER
 FREEMAN & HERZ LLP
 270 Madison Avenue, 9th Floor
 New York, NY 10016
 (212) 545-4600

Dated: February 12, 2021

ASHBY & GEDDES
 John G. Day (#2403)
 Andrew C. Mayo (#5207)
 500 Delaware Avenue, 8th Floor
 P.O. Box 1150
 Wilmington, DE 19899
 (302) 654-1888
 jday@ashbygeddes.com
 amayo@ashbygeddes.com

Attorneys for Plaintiff

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Plaintiff Blix Inc. (“Blix” or “Plaintiff”) hereby demands a jury trial and alleges the following against Defendant Apple Inc. (“Apple” or “Defendant”):

I. INTRODUCTION

1. At its core, this case is about how Apple, a once disruptive and inventive company, has become an immovable roadblock on the path to innovation.

2. Consumers should have access to the best software and on terms that best suit their needs, chosen through the natural selection process of fair competition on the merits. That evolutionary process drives innovation, ensures competitive pricing, improves user privacy and security, and increases demand for cutting-edge technologies. Apple harms that process by using its increasing monopoly control over Mobile operating systems in the United States to continuously and stifle emerging competitive threats and disruptive technology in order to maintain its market power.

3. This is not case about product design or technical integration; rather, it is about Apple’s using anticompetitive contractual restrictions to exclude competition and limit the ability of rivals and threatening technology. Blix is asking to eliminate anticompetitive terms and conditions—not to redesign iOS.

4. In this action, the Court is confronted with the task of determining whether Apple should continue to exclude competitive threats and maintain its unchecked monopoly power to the detriment of consumers, businesses, and innovation.

5. Apple is the most dominant provider of smartphones and smartphone operating systems in the United States. With a market capitalization of over \$2 trillion, Apple is the most valuable company in the U.S. and one of the most recognized brands in the world. Apple’s ubiquitous iPhone is an American status symbol, marketed as a premium product and sold for about \$300 more than the average smartphone.

6. Apple commands a massive and unique user base with a high switching costs for users and substantial barriers to entry for rivals.

7. Through its iPhones, Apple runs a tightly integrated digital ecosystem centered on its proprietary mobile operating system, iOS. In addition to Google's Android OS, iOS is one of two major players in the mobile operating system market, though there are important differences between them. Apple's iOS is the only OS allowed on its devices and is not licensed to other manufacturers. Google, by contrast, does allow users to run a third-party OS on its devices, and licenses its Android OS to a variety of manufacturers.

8. iOS holds a 61.47% share of the mobile operating system ("Mobile OS") market, measured by the number of smartphones on which it runs in the U.S.¹ However, this estimate likely understates the true magnitude of Apple's market share. Given the significantly higher prices that Apple charges for the iPhone in comparison to phones that run Android OS, Apple's market share measured by revenue is likely considerably higher than 61.47%.

9. Even Apple's high market share understates its market power over users and developers. Apple's monopoly power relies upon the centrality of its devices and iOS to the user experience. For decades, Apple has used this dynamic to its advantage, entrenching its power over both consumers and developers. For example, Apple has consistently raised prices on new iterations of the iPhone, without any significant number of consumers switching to Android.² And most iOS users do not multi-home, meaning that they do not use both an Apple and Android product, but are instead trapped by the stickiness of the Apple ecosystem.

¹ See "Mobile Operating System Market Share United States Of America," <https://gs.statcounter.com/os-market-share/mobile/united-states-of-america/#monthly-200901-202102>

² See "Yup, it costs \$999. But you'll pay it." <https://money.cnn.com/2017/09/12/technology/gadgets/iphone-x-price/index.html>

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