

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ZIPIT WIRELESS, INC.,

Plaintiff,

v.

APPLE INC.,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Zipit Wireless, Inc., for its Complaint against Defendant Apple Inc., alleges as follows:

INTRODUCTION

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code.

THE PARTIES

2. Plaintiff, Zipit Wireless, Inc. (hereinafter “Zipit”) is a Delaware Corporation with a principal place of business located at 101 North Main Street, Suite 201, Greenville, South Carolina 29601.

3. On information and belief, Defendant Apple Inc. is a California Corporation with a principal place of business at 1 Infinite Loop, Cupertino, California 95014. On information and belief, Apple maintains regular and established places of business in Georgia, including the following locations listed on Apple's website www.apple.com/retail (1) Apple Lenox Square, 3393 Peachtree Road NE, Atlanta, GA 30326, (2) Apple Avalon, 8130 Avalon Boulevard, Alpharetta, GA 30009 and (3) Apple Perimeter, 4400 Ashford Dunwoody Road, Atlanta, GA 30346,. On information and belief, Defendant Apple Inc. may be served through its registered agent C T Corporation, 289 South Culver Street, Lawrenceville, Georgia 30046-4805.

JURISDICTION

4. This Court has subject matter jurisdiction over all causes of action set forth herein pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, Title 35, United States Code, including 35 U.S.C. §271 *et seq.*

5. Defendant is in the business of supplying instant messaging devices, such as smartphones, in and throughout the United States, including in this State and in this judicial district.

6. This Court may properly exercise personal jurisdiction over Defendant.

7. Defendant has solicited business in this State, transacted business within this State and attempted to derive financial benefit from residents of this State, including benefits directly related to the instant patent infringement cause of action set forth herein.

8. Defendant has made, used, sold, offered for sale, and/or imported instant messaging devices or wireless mobile communications devices, such as smartphones, in this judicial district and/or has placed such phones into the stream of commerce with the knowledge and intent that such phones have been offered for sale, sold, and/or used in this State and this judicial district. On information and belief, Defendant's customers in this State have purchased and used and continue to purchase and use Defendant's products.

9. At the time of filing of this Complaint, Defendant's smartphones are available for purchase by consumers in this State, including within this judicial district.

10. This Court has personal jurisdiction over Defendant because: (i) Defendant has and continues to intentionally sell products and methods, including the infringing methods, to customers in this State; (ii) Defendant has and continues to

intentionally instruct customers and potential customers in this State with respect to how to use the products and methods that Defendant sells to customers in this State; (iii) Defendant knows and has known its products and methods, including the infringing methods, have and continue to be sold and marketed in this State; (iv) Defendant knows and has known that its manufactured products and methods will enter the United States of America and this State; (v) Defendant has and continues to target customers and potential customers in this State to buy and/or use Defendant's products and methods, including the infringing methods; (vi) Defendant has and continues to provide advice to customers in this State; (vii) it has been and continues to be foreseeable that Defendant's products and methods, including the infringing methods, would enter this State; (viii) Defendant has and continues to market to citizens of this State through its website; (ix) Defendant has and continues to provide services to citizens of this State through its website; (x) Defendant derives substantial revenue from this State; (xi) this State has and continues to be part of Defendant's established distribution channels; (xii) the assertion of personal jurisdiction over Defendant is reasonable and fair; (xiii) and this State has an interest in this matter due to the presence of Defendant's products and methods, including the infringing methods, in this State.

11. Venue in this district is proper pursuant to 28 U.S.C. §1331, §1338, §1391, and §1400 at least because Defendant has a regular and established place of business in this judicial district and Defendant has committed acts of infringement in this judicial district.

BACKGROUND

Zipit's Technology

12. Zipit has and continues to offer for sale Wi-Fi based instant messaging solutions. Zipit's first product, the Zipit Wireless Messenger:



was introduced in 2004 and was sold through major retailers including Target, Best Buy, Radio Shack, and Amazon and received press coverage in the Chicago Tribune, the New York Times, and many media outlets.

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