

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION**

NEONODE SMARTPHONE LLC,

Plaintiff,

v.

APPLE INC.,

Defendant.

Civil Action No. 6:20-cv-00505

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Neonode Smartphone LLC (“Neonode”), by and through its attorneys, hereby alleges the following:

I. NATURE OF THE ACTION

1. This is a patent infringement action for damages and other appropriate remedies for Defendant Apple Inc.’s (“Apple’s) unauthorized and infringing manufacture, use, sale, offering for sale, and/or importation of products incorporating Plaintiff’s patented inventions.

2. Neonode is the owner of all right, title, and interest in and to United States Patent Nos. 8,095,879 (the “’879 Patent”), issued January 10, 2012 and titled “User Interface for Mobile Handheld Computer Unit.” A true and correct copy of the ‘879 Patent is attached hereto as Exhibit A.

3. Neonode is also the owner of all right, title, and interest in and to United States Patent Nos. 8,812,993 (the “’993 Patent”), issued August 19, 2014 and titled “User Interface.” The ‘993 Patent is a continuation of the ‘879 Patent. A true and correct copy of the ‘993 Patent is attached hereto as Exhibit B.

4. Apple manufactures, provides, sells, offers for sale, imports, and/or distributes products that directly infringe the '879 and '993 Patents. Further, Apple indirectly infringes the '879 and '993 Patents by inducing and contributing to infringement by others, including users of Apple devices.

5. Neonode seeks monetary damages, prejudgment interest, injunctive relief, and other relief for Apple's past and continuing infringement of the '879 and '993 Patents.

II. PARTIES

6. Plaintiff Neonode is a Wyoming limited liability company having a principal place of business at 30 N. Gould St., Suite R, Sheridan, WY 82801.

7. Upon information and belief, Defendant Apple Inc. is a corporation organized and existing under the laws of California and has several regular and established places of business in the Austin, Texas area, including at 12545 Riata Vista Circle, Austin, Texas. As of November 2019, Apple stated that it had approximately 7,000 employees in the city of Austin. As of May 2020, Apple had posted job listings on its website for at least ten jobs at Apple facilities in Austin. The work done at these locations in Texas includes work related to Apple's iPhone and iPad products.

8. Upon information and belief, Apple also operates brick-and-mortar Apple Stores at Barton Creek Square, Austin, Texas and at Apple Domain Northside, Austin, Texas. *See* www.apple.com/retail/. Apple uses, offers for sale and sells iPhones at these Apple Stores.

9. Apple may be served with process through its registered agent for service in Texas: CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

III. JURISDICTION AND VENUE

10. This is an action for patent infringement, which arises under the Patent Laws of the United States, in particular, 35 U.S.C. §§ 271, 281, 282, 284, and 285. The Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

11. This Court has personal jurisdiction over Apple because Apple has committed acts giving rise to this action within Texas and within this judicial district. Defendant also regularly does business or solicits business in this District and in Texas, engages in other persistent courses of conduct and derives substantial revenue from products and services provided in this District and in Texas, and has purposefully established substantial, systematic, and continuous contacts within this District and should reasonably expect to be sued in a court in this District. For example, Apple has offices within this District. The website www.apple.com solicits sales of infringing products to consumers in this District and in Texas. Given these contacts, the Court's exercise of jurisdiction over Apple will not offend traditional notions of fair play and substantial justice.

12. Venue in the Western District of Texas is proper pursuant to 28 U.S.C. §§ 1391(b), (c) and 1400(b) because Apple has regular and established places of business in this District, including at 12545 Riata Vista Circle, Austin, Texas, has committed acts within this judicial district giving rise to this action, and Apple continues to conduct business in this judicial district, including multiple acts of making, selling, using, importing and/or offering for sale infringing products and providing support service to Apple's customers in this District.

IV. THE PATENTS-IN-SUIT

13. Magnus Goertz, the named inventor of both the '879 and '993 Patents, co-founded Neonode AB in or about 2001. Neonode AB and its affiliated and successor entities developed and commercialized the Neonode N1 and N2 mobile phones. The N1 and N2

incorporated the company's zForce and Neno touchscreen and interface technologies, which enabled production of a phone small enough to fit in the palm of your hand and allowed the user to navigate menus and functions with simple finger-based taps and swipes. Patents covering these technologies were later issued in the United States to Neonode Inc. As of 2020, the zForce technology had been incorporated into at least 73 million products worldwide.

14. The '879 and '993 Patents relate to the Neno technology for presenting and interacting with a user interface of a mobile handheld computer unit that includes a touch sensitive display.

15. The specification common to both the '879 Patent and the '993 Patent identifies technical problems in the prior art and discloses solutions to these problems. For instance, the specification explains that there was a recognized problem in the prior art as of 2002, the priority date of both patents, providing an interface on mobile handheld computers that was "adapted to handle a large amount of information and different kinds of traditional computer-related applications on a small handheld computer unit." ('879 Patent, col. 1:49-52; '993 Patent, col. 1:59-62) It was also "a problem to provide a small handheld computer unit with an easily accessible text input function." ('879 Patent, col. 1:56-57; '993 Patent, col. 1:66-67) It was "also a problem to provide a simple way to make the most commonly used functions for navigation and management available in the environment of a small handheld computer unit." ('879 Patent, col. 1:58-61; '993 Patent, col. 2:1-4)

16. In order to overcome these problems, the '879 and '993 Patents taught, among other things, that a mobile device with a touch sensitive display could be configured to provide a user interface presenting multiple representations of predefined functions, each of which could be activated when the device detects a particular type of movement of an object on the display,

such as, for example, a user's finger touching the display and gliding away from the touched location. This teaching was novel, and, among other things, enabled more effective use of the limited space available on the touch sensitive display of a mobile computer unit such as a smartphone.

V. APPLE'S KNOWLEDGE OF THE PATENTS-IN-SUIT

17. On information and belief, Apple has known of the '879 Patent since shortly after it issued, on January 10, 2012.

18. On or about February 8, 2012, Apple Inc. filed a complaint against Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC, entitled *Apple Inc. v. Samsung Electronics Co., Ltd.*, et al., in the U.S. District Court for the Northern District of California, Case No. 12-CV-00630-LHK ("the *Apple v. Samsung* litigation"). In the *Apple v. Samsung* litigation, Apple alleged that the defendant Samsung entities had infringed and were infringing a number of Apple patents. Among the Apple patents asserted in this action were U.S. Patent No. 8,046,721, entitled "Unlocking a device by performing gestures on an unlock image." On information and belief, this patent became widely known as the "swipe to unlock" or "slide to unlock" patent.

19. On information and belief, Apple and/or its litigation counsel regularly monitored industry press relating to the subject matter of the litigation against Samsung and undertook substantial research and investigative efforts to obtain information pertinent to the subject matter of the litigation against Samsung, on an ongoing basis from at least February 2012 forward.

20. On or about February 22, 2012, an article entitled "Neonode Beat Apple By Three Years With The Swipe-To-Unlock Patent" was published in the online journal The Tech Journal, <https://thetechjournal.com/tech-news/industry-news/neonode-beat-apple-by-three-years-with-the-swipe-to-unlock-patent.xhtml>. The article stated, among other things, that "[a] small but

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