

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ELIA DATA OF TEXAS, LLC,

Plaintiff,

v.

APPLE INC.,

Defendant.

CIVIL ACTION NO. 2:13-cv-147

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

1. This is an action for patent infringement in which Elia Data of Texas, LLC (“Elia” or “Plaintiff”) makes the following allegations against Apple Inc. (“Apple” or “Defendant”).

PARTIES

2. Plaintiff is a Texas limited liability company with its principal place of business at 1333 W. McDermott Drive, Suite 200, Allen, Texas 75013. Elia’s president is Daniel F. Perez.

3. On information and belief, Defendant Apple Inc. (“Apple”), is a California corporation with its principal place of business at 1 Infinite Loop, Cupertino, California 95014. Defendant Apple’s registered agent in Texas is CT Corporation System, 350 N. St. Paul Street, Suite 2900, Dallas, Texas 75201.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendant has transacted business in this district, and has committed and/or induced acts of patent infringement in this district.

6. On information and belief, Apple is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this Judicial District.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 7,113,996

7. Plaintiff is the owner by assignment of United States Patent No. 7,113,996 ("the '996 Patent") entitled "Method and system for secured transport and storage of data on a network" – including all rights to recover for past and future acts of infringement. The '996 Patent issued on September 26, 2006. A true and correct copy of the '996 Patent is attached as Exhibit A.

8. Upon information and belief, Apple directly or through intermediaries is making, made, having made, installing, installed, using, used, importing, imported, providing, provided, supplying, supplied, distributing, distributed, selling, sold, offering and/or offered for sale products and/or systems (the "infringing products/systems") that infringe or, when used by their intended users in the manner intended by Apple, infringe(d) one or more claims of the '996 Patent in the State of Texas, in this judicial district, and elsewhere in the United States. The infringing products/systems are designed and programmed to provide secure transport of secure packets between a first network node and a second network node – both nodes being operationally coupled within or to the infringing products/systems. The first node of the infringing products/systems creates secure packets related to a given data or communications transmission. Each secure packet contains retrieval information. The infringing products/systems are further designed and programmed to provide secure relay constructs that are operable to receive secure packets, and non-secure packets, from network nodes or other secure relay constructs. The secure relay constructs of the infringing products/systems are

operable to identify retrieval information embedded or encoded within each secure packet. The secure relay constructs of the infringing products/systems are further operable to forward secure packets to another secure relay construct, and/or to forward non-secure packets to a destination relay. Once a retrieval condition has been indicated, initiated, or otherwise communicated by the second network node, the secure relay construct responsively forwards related secure packets to the second network node. If such a retrieval condition has not been indicated, initiated, or otherwise communicated within the network, the secure relay forwards secure packets to another secure relay. The second network node is operable to create and communicate the retrieval condition – which is related to the retrieval information in the secure packets – and thereafter receive those secure packets. In the infringing products/systems, the first and second network nodes are operationally separate from the secure relay constructs. Without limiting or waiving Plaintiff’s right to later amend or supplement its Complaint, Apple’s infringing products/systems include its: Remote Desktop Software/Platform (operating independently or in conjunction with other components); OS X Server Software/Platform (operating independently or in conjunction with other components); and iCloud service/platform (which interoperates across Apple iPhone, iPod, iPad, Mac and Macbook devices, as well as Apple’s iTunes and App Store services). Use of these infringing products/systems in their intended manner infringes one or more claims of the ‘996 Patent. Defendant Apple is thus liable for infringement of the ‘996 Patent pursuant to 35 U.S.C. § 271(a), (b) & (c).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

1. A judgment in favor of Plaintiff that Defendant has infringed, directly, jointly, and/or indirectly, by way of inducing and/or contributing to the infringement of the ‘996 Patent;
2. A permanent injunction enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement, inducing the infringement of, or contributing to the infringement of the ‘996 Patent;
3. A judgment and order requiring Defendant to pay Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for Defendant’s infringement of the ‘996 Patent as provided under 35 U.S.C. § 284;

4. An award to Plaintiff for enhanced damages resulting from the knowing, deliberate, and willful nature of Defendant's prohibited conduct with notice being made as of the date of correspondence with Defendant, or at least as early as the date of the filing of this Complaint, as provided under 35 U.S.C. § 284;

5. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees; and

6. Any and all other relief to which Plaintiff may show itself to be entitled.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

February 21, 2013

Respectfully Submitted,

ELIA DATA OF TEXAS

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