

Exhibit D

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

VOIP-PAL.COM, INC, a Nevada corporation,

Plaintiff,

v.

APPLE, INC, a California corporation,

Defendants.

CASE NO.:

**ASSERTED CLAIMS AND
INFRINGEMENT CONDITIONS**

Plaintiff, Voip-Pal.com, Inc.’s (“VPLM”) provides the following Asserted Claims and Infringement Contentions for Apple, Inc. (“Apple”). These contentions are preliminary, and based solely on public information obtained by VPLM. VPLM reserves the right to supplement these claims and contentions as appropriate based upon the opening of discovery in this case. VPLM provides the following preliminary disclosures

A. PRELIMINARY DISCLOSURES

(a) *Identification of each claim of each patent in suit that is allegedly infringed by Apple, including for each claim the applicable statutory subsection of 35 .S.C. § 271;*

1 In the claim charts below, VPLM has identified claims of the patents in suit that are infringed
 2 by Apple. For each claim in the chart below the applicable statutory subsection of 35 U.S.C.
 3 § 271 is subsection (a).

4 (b) *Separately for each asserted claim, identification of each accused apparatus,*
 5 *product, device, process, method, act, or other instrumentality (“Accused Device”) of the opposing*
 6 *party of which the party claiming infringement is aware. This identification shall be as specific as*
 7 *possible. Each Accused Device must be identified by name or model number, if known. Each*
 8 *method or process shall be identified by name, if known, or by any product, device, or apparatus*
 9 *which, when used, allegedly results in the practice of the claimed method or process;*

10 **1. Asserted Claims with respect to Apple’s iMessage System**

11 **a. Asserted Claim No. 1 regarding iMessage (the ‘815 patent)**

12 Apple Inc. (“Apple”) supports and operates iMessage, the first Accused Device, which is an
 13 instant messaging service supported by the Messages application that allows smartphone and desktop
 14 users to send messages including text, images, video and audio to other users. The iMessage
 15 software application runs on Apple desktop computers, laptops, tablets and mobile devices running
 16 OS X, iOS and watchOS operating systems. iMessage practices directly and/or indirectly certain
 17 claims of the ‘815 patent by utilizing a caller dialing profile comprising a plurality of calling
 18 attributes to form network classification criteria. *See Chart 1*, Claim Chart, attached hereto.

19 **b. Asserted Claim No. 2 regarding iMessage (the ‘005 patent)**

20 Apple Inc. (“Apple”) supports and operates iMessage, the first Accused Device, which is an
 21 instant messaging service supported by the Messages application that allows smartphone and desktop
 22 users to send messages including text, images, video and audio to other users. The iMessage
 23 software application runs on Apple desktop computers, laptops, tablets and mobile devices running
 24 OS X, iOS and watchOS operating systems. iMessage practices directly and/or indirectly certain
 25 claims of the ‘005 patent by utilizing a caller dialing profile comprising a plurality of calling
 26 attributes to form network classification criteria. *See Chart 3*, Claim Chart, attached hereto.
 27
 28

1 **2. Asserted Claims with respect to Apple’s WiFi Calling Platform**

2 **a. Asserted Claim No. 3 regarding WiFi Calling (the ‘815 patent)**

3 Apple also supports “Wi-Fi Calling” on desktop computers, laptops, tablets and mobile
4 devices. Wi-Fi Calling practices directly and/or indirectly certain claims of the ‘815 patent by
5 utilizing a caller dialing profile comprising a plurality of calling attributes to form network
6 classification criteria. *See Chart 2*, Claim Chart, attached hereto.

7 **b. Asserted Claim No. 4 regarding WiFi Calling (the ‘005 patent)**

8 Apple also supports “Wi-Fi Calling” on desktop computers, laptops, tablets and mobile
9 devices. Wi-Fi Calling practices directly and/or indirectly certain claims of the ‘005 patent by
10 utilizing a caller dialing profile comprising a plurality of calling attributes to form network
11 classification criteria. *See Chart 4*, Claim Chart, attached hereto.

12 **(c) *A chart identifying specifically where each element of each asserted claim is found***
13 ***within each Accused Device, including for each element that such party contends is governed by***
14 ***35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in the Accused Device that***
15 ***performs the claimed function;***

16 Claim Charts, collectively attached hereto as **Chart 1** and **Chart 2**, regarding the Apple’s
17 iMessage System, and **Chart 3** and **Chart 4**, regarding the Apple’s WiFi Platform, specifically
18 identify where each element of each asserted claim is found within each Accused Device. To
19 simplify issues, and to conserve the time and resources of the parties and the Court, VPLM has not
20 asserted any means plus function claims at this time.

21 **(d) *For each claim that is alleged to have been indirectly infringed, an identification of***
22 ***any direct infringement and a description of the acts of the alleged indirect infringer that***
23 ***contribute to or are inducing that direct infringement. Insofar as alleged direct infringement is***
24 ***based on joint acts of multiple parties, the role of each such party in the direct infringement must***
25 ***be described;***

26 VPLM alleges that indirect infringement occurred.

27 **(e) *Whether each limitation of each asserted claim is alleged to be literally present or***
28 ***present under the doctrine of equivalents in the Accused Device;***

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In the Claim Charts below, VPLM asserts that the claims are literally infringed by the Accused Device. VPLM has therefore not made any claims under the doctrine of equivalents at this time.

(f) For any patent that claims priority to an earlier application, the priority date to which each asserted claim allegedly is entitled;

The priority date for each asserted claim in the Claim Charts is November 2, 2006.

(g) If a party claiming patent infringement wishes to preserve the right to rely, for any purpose, on the assertion that is own apparatus, product, device, process, method, act, or other instrumentality practices the claimed invention, the party shall identify, separately for each asserted claim, each such apparatus, product, device, process, method, act, or other instrumentality that incorporates or reflects that particular claim; and,

(h) If a party claiming patent infringement alleges willful infringement, the basis for such allegation.

VPLM is informed and believes, and on that basis alleges, that Apple’s infringement of the ‘815 patent and the ‘005 patent has been and continues to be intentional, willful, and without regard to VPLM’s rights, because it had actual knowledge of the identified patents through direct or indirect communications with VPLM and/or as a result of its participation in the Internet Protocol communications industry.

DATED this ____ day of February, 2016.

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