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21 Attorneys for *Defendant/Counterclaim-Plaintiff Apple Inc.*

22 UNITED STATES DISTRICT COURT

23 SOUTHERN DISTRICT OF CALIFORNIA

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QUALCOMM INCORPORATED,

25 Case No. 3:17-CV-1375-DMS-MDD

26 Plaintiff,

27 **ANSWER OF APPLE INC. TO  
QUALCOMM INC. AND QUALCOMM  
TECHNOLOGIES, INC.'S  
COUNTERCLAIMS TO  
DEFENDANT APPLE INC.'S FIRST  
AMENDED COUNTERCLAIMS**

v.

28 APPLE INC.,

Defendant.

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AND RELATED COUNTERCLAIMS.

[JURY TRIAL DEMANDED]

1 Defendant Apple Inc. (“Apple”) files its Answer to the Counterclaims of  
2 Counterclaim-Defendants Qualcomm Incorporated (“Qualcomm”) and Qualcomm  
3 Technologies, Inc. (“QTI”) (collectively, “Qualcomm Counterclaim-Defendants”)  
4 (see Dkt. #105) to Defendant Apple Inc.’s First Amended Counterclaims  
5 (“Counterclaims”) (see Dkt. #97).

## **ANSWER TO COUNTERCLAIMS**

7       Apple responds to the allegations contained in the numbered paragraphs of  
8 the Counterclaims of Qualcomm and QTI below. Apple denies the allegations and  
9 characterizations in the Counterclaims of Qualcomm and QTI unless expressly  
10 admitted in the following paragraphs.

## PARTIES<sup>1</sup>

12        1.      Apple admits that Qualcomm is a Delaware corporation with its  
13 principal place of business located at 5775 Morehouse Drive, San Diego, California  
14 92121.

15        2.      Apple admits that QTI is a Delaware corporation with its principal  
16 place of business at 5775 Morehouse Drive, San Diego, California.

17       3.     Apple admits that it is a California corporation with a principal place of  
18 business at 1 Infinite Loop, Cupertino, California, 95014.

## **JURISDICTION AND VENUE**

20 4. Apple admits that this Court has subject matter jurisdiction.

21 Qualcomm and QTI's venue allegation calls for a legal conclusion and therefore no  
22 answer is required.

<sup>24</sup> <sup>1</sup> Apple repeats the headings set forth in Plaintiff/Counterclaim-Defendant  
25 Qualcomm Inc.'s and Counterclaim-Defendant Qualcomm Technologies, Inc.'s  
26 Answer and Counterclaims to Defendant Apple's First Amended Counterclaims  
27 (Dkt. #105) in order to simplify comparison of the Counterclaim-Defendants'  
28 counterclaims and this Response. In doing so, Apple makes no admissions  
regarding the substance of the headings or any other allegations of the Qualcomm  
Counterclaim-Defendants' counterclaims. Unless otherwise stated, to the extent that  
a particular heading can be construed as an allegation, Apple specifically denies all  
such allegations.

5. Apple does not contest personal jurisdiction over Apple by this Court in this action.

## FIRST COUNT

## **Declaration of Non-Infringement of U.S. Patent No. 7,355,905**

6. Apple restates, re-alleges, and incorporates by reference each of the allegations set forth above as if fully set forth herein.

7. Apple claims to be, and is, the owner of all rights, title, and interest in United States Patent No. 7,355,905 ("the '905 patent").

8. Apple admits that it alleges Qualcomm and QTI infringe at least claim 1 of the '905 patent. Apple further admits that there exists a substantial, immediate, and real controversy between the parties as to Qualcomm and QTI's infringement of the '905 patent.

9. Apple states that the allegations of Paragraph 9 state legal conclusions to which no response is required. To the extent a response is required, Apple denies the allegations and characterizations contained in Paragraph 9 of Qualcomm and QTI's Counterclaims.

10. To the extent Paragraph 10 of Qualcomm and QTI's Counterclaims implicates legal conclusions, no response is required. Apple admits that Qualcomm and QTI purport to request a declaration of the Court that Qualcomm and QTI do not infringe and have not infringed any claim of the '905 patent, but Apple denies that Qualcomm and QTI are entitled to such relief.

## SECOND COUNT

## **Declaration of Invalidity of United States Patent No. 7,355,905**

11. Apple restates, re-alleges, and incorporates by reference each of the allegations set forth above as if fully set forth herein.

12. Apple states that the allegations of Paragraph 12 state legal conclusions to which no response is required. To the extent a response is required, Apple denies

1 the allegations and characterizations contained in Paragraph 12 of Qualcomm and  
2 QTI's Counterclaims.

3 13. To the extent Paragraph 13 of Qualcomm and QTI's Counterclaims  
4 implicates legal conclusions, no response is required. Apple admits that Qualcomm  
5 and QTI purport to request a declaration of the Court that the asserted claims of the  
6 '905 patent are invalid and fail to comply with one or more provisions of 35 U.S.C.  
7 §§ 101 *et seq.*, but Apple denies that Qualcomm and QTI are entitled to such relief.

8 **THIRD COUNT**

9 **Declaration of Non-Infringement of U.S. Patent No. 7,760,559**

10 14. Apple restates, re-alleges, and incorporates by reference each of the  
11 allegations set forth above as if fully set forth herein.

12 15. Apple claims to be, and is, the owner of all rights, title, and interest in  
13 United States Patent No. 7,760,559 ("the '559 patent").

14 16. Apple admits that it alleges Qualcomm and QTI infringe at least claim  
15 1 of the '559 patent. Apple further admits that there exists a substantial, immediate,  
16 and real controversy between the parties as to Qualcomm and QTI's infringement of  
17 the '559 patent.

18 17. Apple states that the allegations of Paragraph 17 state legal conclusions  
19 to which no response is required. To the extent a response is required, Apple denies  
20 the allegations and characterizations contained in Paragraph 17 of Qualcomm and  
21 QTI's Counterclaims.

22 18. To the extent Paragraph 18 of Qualcomm and QTI's Counterclaims  
23 implicates legal conclusions, no response is required. Apple admits that Qualcomm  
24 and QTI purport to request a declaration of the Court that Qualcomm and QTI do  
25 not infringe and have not infringed any claim of the '559 patent, but Apple denies  
26 that Qualcomm and QTI are entitled to such relief.

27 **FOURTH COUNT**

28 **Declaration of Invalidity of United States Patent No. 7,760,559**

19. Apple restates, re-alleges, and incorporates by reference each of the allegations set forth above as if fully set forth herein.

20. Apple states that the allegations of Paragraph 20 state legal conclusions to which no response is required. To the extent a response is required, Apple denies the allegations and characterizations contained in Paragraph 20 of Qualcomm and QTI's Counterclaims.

21. To the extent Paragraph 21 of Qualcomm and QTI's Counterclaims implicates legal conclusions, no response is required. Apple admits that Qualcomm and QTI purport to request a declaration of the Court that the asserted claims of the '559 patent are invalid and fail to comply with one or more provisions of 35 U.S.C. §§ 101 *et seq.*, but Apple denies that Qualcomm and QTI are entitled to such relief.

## FIFTH COUNT

## **Declaration of Non-Infringement of U.S. Patent No. 8,098,534**

22. Apple restates, re-alleges, and incorporates by reference each of the allegations set forth above as if fully set forth herein.

23. Apple claims to be, and is, the owner of all rights, title, and interest in United States Patent No. 8,098,534 (“the ’534 patent”).

24. Apple admits that it alleges Qualcomm and QTI infringe at least claim 1 of the '534 patent. Apple further admits that there exists a substantial, immediate, and real controversy between the parties as to Qualcomm and QTI's infringement of the '534 patent.

25. Apple states that the allegations of Paragraph 25 state legal conclusions to which no response is required. To the extent a response is required, Apple denies the allegations and characterizations contained in Paragraph 25 of Qualcomm and OTI's Counterclaims.

26. To the extent Paragraph 26 of Qualcomm and QTI's Counterclaims implicates legal conclusions, no response is required. Apple admits that Qualcomm and QTI purport to request a declaration of the Court that Qualcomm and QTI do

1 not infringe and have not infringed any claim of the '534 patent, but Apple denies  
2 that Qualcomm and QTI are entitled to such relief.

3 **SIXTH COUNT**

4 **Declaration of Invalidity of United States Patent No. 8,098,534**

5 27. Apple restates, re-alleges, and incorporates by reference each of the  
6 allegations set forth above as if fully set forth herein.

7 28. Apple states that the allegations of Paragraph 28 state legal conclusions  
8 to which no response is required. To the extent a response is required, Apple denies  
9 the allegations and characterizations contained in Paragraph 28 of Qualcomm and  
10 QTI's Counterclaims.

11 29. To the extent Paragraph 29 of Qualcomm and QTI's Counterclaims  
12 implicates legal conclusions, no response is required. Apple admits that Qualcomm  
13 and QTI purport to request a declaration of the Court that the asserted claims of the  
14 '534 patent are invalid and fail to comply with one or more provisions of 35 U.S.C.  
15 §§ 101 *et seq.*, but Apple denies that Qualcomm and QTI are entitled to such relief.

16 **SEVENTH COUNT**

17 **Declaration of Non-Infringement of U.S. Patent No. 7,383,453**

18 30. Apple restates, re-alleges, and incorporates by reference each of the  
19 allegations set forth above as if set forth fully herein.

20 31. Apple claims to be, and is, the owner of all rights, title, and interest in  
21 United States Patent No. 7,383,453 ("the '453 patent").

22 32. Apple admits that it has alleged Qualcomm and QTI infringe at least  
23 Claim 1 of the '453 patent. Apple further admits that there exists a substantial,  
24 immediate, and real controversy between the parties as to Qualcomm and QTI's  
25 infringement of the '453 patent.

26 33. Apple states that the allegations of Paragraph 33 state legal conclusions  
27 to which no response is required. To the extent a response is required, Apple denies  
28 the allegations and characterizations in Paragraph 33.

1       34. To the extent Paragraph 34 of Qualcomm and QTI's Counterclaims  
2 implicates legal conclusions, no response is required. Apple admits that Qualcomm  
3 and QTI purport to request a declaration of the Court that Qualcomm and QTI do  
4 not infringe, and have not infringed, any claim of Apple's '453 patent, but Apple  
5 denies that Qualcomm and QTI are entitled to such relief.

## EIGHTH COUNT

## **Declaration of Invalidity of United States Patent No. 7,383,453**

8       35. Apple restates, re-alleges, and incorporates by reference each of the  
9 allegations set forth above as if fully set forth herein.

10       36. Apple states that the allegations of Paragraph 36 state legal conclusions  
11 to which no response is required. To the extent a response is required, Apple denies  
12 the allegations and characterizations contained in Paragraph 36 of Qualcomm and  
13 QTI's Counterclaims.

14       37. To the extent Paragraph 37 of Qualcomm and QTI’s Counterclaims  
15 implicates legal conclusions, no response is required. Apple admits that Qualcomm  
16 and QTI purport to request a declaration of the Court that the asserted claims of the  
17 ’453 patent are invalid and fail to comply with one or more provisions of 35 U.S.C.  
18 §§ 101 *et seq.*, but Apple denies that Qualcomm and QTI are entitled to such relief.

## NINTH COUNT

## **Declaration of Non-Infringement of U.S. Patent No. 8,433,940**

21       38. Apple restates, re-alleges, and incorporates by reference each of the  
22 allegations set forth above as if fully set forth herein.

23 39. Apple claims to be, and is, the owner of all rights, title, and interest in  
24 United States Patent No. 8,433,940 (“the ’940 patent”).

25        40. Apple admits that it has alleged Qualcomm and QTI infringe at least  
26 Claim 9 of the '940 patent. Apple further admits that there exists a substantial,  
27 immediate, and real controversy between the parties as to Qualcomm and QTI's  
28 infringement of the '940 patent.

41. Apple states that the allegations of Paragraph 41 state legal conclusions to which no response is required. To the extent a response is required, Apple denies the allegations and characterizations in Paragraph 41.

42. To the extent Paragraph 42 of Qualcomm and QTI's Counterclaims implicates legal conclusions, no response is required. Apple admits that Qualcomm and QTI purport to request a declaration of the Court that Qualcomm and QTI do not infringe, and have not infringed, any claim of Apple's '940 patent, but Apple denies that Qualcomm and QTI are entitled to such relief.

## TENTH COUNT

## **Declaration of Invalidity of United States Patent No. 8,433,940**

43. Apple restates, re-alleges, and incorporates by reference each of the allegations set forth above as if fully set forth herein.

44. Apple states that the allegations of Paragraph 44 state legal conclusions to which no response is required. To the extent a response is required, Apple denies the allegations and characterizations contained in Paragraph 44 of Qualcomm and QTI's Counterclaims.

45. To the extent Paragraph 45 of Qualcomm and QTI's Counterclaims implicates legal conclusions, no response is required. Apple admits that Qualcomm and QTI purport to request a declaration of the Court that the asserted claims of the '940 patent are invalid and fail to comply with one or more provisions of 35 U.S.C. §§ 101 *et seq.*, but Apple denies that Qualcomm and QTI are entitled to such relief.

## ELEVENTH COUNT

## **Declaration of Non-Infringement of U.S. Patent No. 8,443,216**

46. Apple restates, re-alleges, and incorporates by reference each of the allegations set forth above as if fully set forth herein.

47. Apple claims to be, and is, the owner of all rights, title, and interest in United States Patent No. 8,443,216 (“the ’216 patent”).

1       48. Apple admits that it has alleged that Qualcomm and QTI infringe at  
2 least Claim 1 of the '216 patent. Apple further admits that there exists a substantial,  
3 immediate, and real controversy between the parties as to Qualcomm and QTI's  
4 infringement of the '216 patent.

5       49. Apple states that the allegations of Paragraph 49 state legal conclusions  
6 to which no response is required. To the extent a response is required, Apple denies  
7 the allegations and characterizations in Paragraph 49.

8       50. To the extent Paragraph 50 of Qualcomm and QTI's Counterclaims  
9 implicates legal conclusions, no response is required. Apple admits that Qualcomm  
10 and QTI purport to request a declaration of the Court that Qualcomm and QTI do  
11 not infringe, and have not infringed, any claim of Apple's '216 patent, but Apple  
12 denies that Qualcomm and QTI are entitled to such relief.

## 13                   **TWELFTH COUNT**

### 14                   **Declaration of Invalidity of United States Patent No. 8,443,216**

15       51. Apple restates, re-alleges, and incorporates by reference each of the  
16 allegations set forth above as if fully set forth herein.

17       52. Apple states that the allegations of Paragraph 52 state legal conclusions  
18 to which no response is required. To the extent a response is required, Apple denies  
19 the allegations and characterizations contained in Paragraph 52 of Qualcomm and  
20 QTI's Counterclaims.

21       53. To the extent Paragraph 53 of Qualcomm and QTI's Counterclaims  
22 implicates legal conclusions, no response is required. Apple admits that Qualcomm  
23 and QTI purport to request a declaration of the Court that the asserted claims of the  
24 '216 patent are invalid and fail to comply with one or more provisions of 35 U.S.C.  
25 §§ 101 *et seq.*, but Apple denies that Qualcomm and QTI are entitled to such relief.

## 26                   **THIRTEENTH COUNT**

### 27                   **Declaration of Non-Infringement of U.S. Patent No. 8,271,812**

54. Apple restates, re-alleges, and incorporates by reference each of the allegations set forth above as if fully set forth herein.

55. Apple claims to be, and is, the owner of all rights, title, and interest in United States Patent No. 8,271,812 (“the ’812 patent”).

56. Apple admits that it has alleged that Qualcomm and QTI infringe at least Claim 8 of the '812 patent. Apple further admits that there exists a substantial, immediate, and real controversy between the parties as to Qualcomm and QTI's infringement of the '812 patent.

57. Apple states that the allegations of Paragraph 57 state legal conclusions to which no response is required. To the extent a response is required, Apple denies the allegations and characterizations in Paragraph 57.

58. To the extent Paragraph 58 of Qualcomm and QTI's Counterclaims implicates legal conclusions, no response is required. Apple admits that Qualcomm and QTI purport to request a declaration of the Court that Qualcomm and QTI do not infringe, and have not infringed, any claim of Apple's '812 patent, but Apple denies that Qualcomm and QTI are entitled to such relief.

## FOURTEENTH COUNT

## **Declaration of Invalidity of United States Patent No. 8,271,812**

59. Apple restates, re-alleges, and incorporates by reference each of the allegations set forth above as if fully set forth herein.

60. Apple states that the allegations of Paragraph 60 state legal conclusions to which no response is required. To the extent a response is required, Apple denies the allegations and characterizations contained in Paragraph 60 of Qualcomm and OTI's Counterclaims.

61. To the extent Paragraph 61 of Qualcomm and QTI's Counterclaims implicates legal conclusions, no response is required. Apple admits that Qualcomm and QTI purport to request a declaration of the Court that the asserted claims of the

1 '812 patent are invalid and fail to comply with one or more provisions of 35 U.S.C.  
2 §§ 101 et seq., but Apple denies that Qualcomm and QTI are entitled to such relief.

3 **FIFTEENTH COUNT**

4 **Declaration of Non-Infringement of U.S. Patent No. 8,656,196**

5 62. Apple restates, re-alleges, and incorporates by reference each of the  
6 allegations set forth above as if fully set forth herein.

7 63. Apple claims to be, and is, the owner of all rights, title, and interest in  
8 United States Patent No. 8,656,196 ("the '196 patent").

9 64. Apple admits that it has alleged that Qualcomm and QTI infringe at least  
10 Claim 1 of the '196 patent. Apple further admits that there exists a substantial,  
11 immediate, and real controversy between the parties as to Qualcomm and QTI's  
12 infringement of the '196 patent.

13 65. Apple states that the allegations of Paragraph 65 state legal conclusions to  
14 which no response is required. To the extent a response is required, Apple denies  
15 the allegations and characterizations in Paragraph 65.

16 66. To the extent Paragraph 66 of Qualcomm and QTI's Counterclaims  
17 implicates legal conclusions, no response is required. Apple admits that Qualcomm  
18 and QTI purport to request a declaration of the Court that Qualcomm and QTI do  
19 not infringe, and have not infringed, any claim of Apple's '196 patent, but Apple  
20 denies that Qualcomm and QTI are entitled to such relief.

21 **SIXTEENTH COUNT**

22 **Declaration of Invalidity of United States Patent No. 8,656,196**

23 67. Apple restates, re-alleges, and incorporates by reference each of the  
24 allegations set forth above as if fully set forth herein.

25 68. Apple states that the allegations of Paragraph 68 state legal conclusions to  
26 which no response is required. To the extent a response is required, Apple denies  
27 the allegations and characterizations contained in Paragraph 68 of Qualcomm and  
28 QTI's Counterclaims.

1        69. To the extent Paragraph 69 of Qualcomm and QTI’s Counterclaims  
2 implicates legal conclusions, no response is required. Apple admits that Qualcomm  
3 and QTI purport to request a declaration of the Court that the asserted claims of the  
4 ’196 patent are invalid and fail to comply with one or more provisions of 35 U.S.C.  
5 §§ 101 et seq., but Apple denies that Qualcomm and QTI are entitled to such relief.

## DEMAND FOR JURY TRIAL

7 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Apple demands a  
8 jury trial on all issues so triable.

## PRAYER FOR RELIEF

WHEREFORE, Apple prays for relief, as follows:

11 (a) A declaration that Apple has not infringed and does not infringe any  
12 valid and enforceable claim of the '936, '558, '949, '490, and '675 patents;

13 (b) A declaration that the '936, '558, '949, '490, and '675 patents are  
14 invalid;

15 (c) A declaration that the '558 patent is unenforceable due to inequitable  
16 conduct;

17 (d) A declaration that the certificate of correction to the '558 patent is  
18 invalid;

24 (f) An order barring Qualcomm and its officers, agents, servants,  
25 employees, attorneys, and others in active concert or participation with them from  
26 asserting infringement or instituting or continuing any legal action for infringement  
27 of the '936, '558, '949, '490, or '675 patents against Apple or its suppliers,

1 manufacturers, distributors, resellers of its products, customers, or end users of its  
2 products;

3 (g) A declaration that Qualcomm and QTI have infringed the '905, '559,  
4 '534, '453, '940, '216, '812, and '196 patents;

5 (h) A declaration that Qualcomm and QTI have not shown that the '905,  
6 '559, '534, '453, '940, '216, '812, or '196 patents are invalid;

7 (i) An award of damages in an amount to be proven at trial, but in no event  
8 less than reasonable royalty, for Qualcomm's and QTI's infringement, of the '905,  
9 '559, '534, '453, '940, '216, '812, and '196 patents, including pre-judgment and  
10 post-judgment interest at the maximum rate permitted by law and to the extent that  
11 the jury does not award a paid-up royalty for such patent(s), a determination of a  
12 prospective royalty (see Paice LLC v. Toyota Motor Corp., 503 F.3d 1293 (Fed. Cir.  
13 2007));

14 (j) An award of expenses, costs, and disbursement in this action, including  
15 prejudgment interest;

16 (k) An order declaring that this is an exceptional case and awarding Apple  
17 its reasonable attorney fees under 35 U.S.C. § 285; and

18 (l) Such other and additional relief as this Court may deem just and proper.

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1 Dated: February 5, 2018

Respectfully submitted,

2 By: /s/ Frank J. Albert

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35  
36 Attorneys for *Defendant/Counterclaim-Plaintiff*  
37 *Apple Inc.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on February 5, 2018, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Civil Local Rule 5.4. Any other counsel of record will be served by electronic mail, facsimile and/or overnight delivery.

Executed on February 5, 2018, at San Diego, California.

/s/ *Frank J. Albert*

Frank J. Albert