

PUBLIC VERSION

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

FINTIV, INC.,	§	
	§	Civil Action No.: 1:21-cv-00896-ADA
	§	
Plaintiff,	§	
	§	JURY TRIAL DEMANDED
v.	§	
	§	
APPLE INC.,	§	
	§	
Defendant.	§	

**PLAINTIFF FINTIV, INC.’S EMERGENCY MOTION FOR
REOPENING OF DISCOVERY, TRIAL CONTINUANCE, AND SANCTIONS**

Plaintiff Fintiv, Inc. (“Fintiv” or “Plaintiff”)—having learned within the past two weeks of critical new evidence suppressed by Defendant Apple Inc. (“Apple” or “Defendant”) in blatant violation of its discovery obligations—respectfully moves to reopen discovery for the limited purpose of addressing this new evidence, to continue the June 21, 2022 trial to allow such discovery to be completed, and for monetary sanctions.

The newly discovered facts—evidenced by a sworn declaration and documentary evidence—demonstrate that SK C&C d/b/a CorFire (“CorFire”), from which Fintiv acquired the Patent-in Suit, shared key aspects of its patented mobile wallet technology during at least five in-person meetings with Apple in 2011 and 2012—three years before Apple launched its infringing Apple Pay—and that Apple thereafter hired CorFire employees who attended the meetings and even put one in charge of its Apple Pay and Apple Wallet Management program. During discovery, Apple not only wrongfully suppressed these facts—which go directly to Apple’s willfulness in infringing the Patent-in Suit—but also falsely represented to Fintiv and this Court that no such meetings had occurred.

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Given the urgency of this Motion, Fintiv respectfully requests that the Court order expedited briefing with Apple's response due by Wednesday, June 8, 2022. Fintiv waives its right to a reply and respectfully requests a hearing on or before Friday, June 10, 2022, if possible.

I. PROCEDURAL HISTORY & FACTUAL BACKGROUND

On July 14, 2020, Fintiv moved for leave to file a third amended complaint seeking relief for claims including Apple's willful infringement relating to pre-suit communications that Fintiv discovered—and that Apple had failed to disclose—during the course of discovery. Dkt. 139. This discovery revealed, among other things, that Apple failed to disclose that (1) in 2011 CorFire met with Apple to pitch and present its mobile wallet secure element technology to Apple's engineers and product managers and (2) Apple hired ██████████ CorFire's former m-Commerce Global Product & New Business Development Manager. *Id.* at 6-7. After considering the arguments by the parties, the Court ultimately decided that Fintiv had not shown "good cause" to add a claim for willful infringement. Importantly, the Court did not make a finding that the facts Fintiv sought to add were not credible or that Fintiv could not prove Apple had pre-suit knowledge of the Patent-in-Suit, including to support Fintiv's indirect infringement claims. Instead, the Court's ruling was based on the late addition of a new cause of action and the Court's opinion on Fintiv's ability to prove that specific cause of action, willful infringement, with such facts. Ex. 1,¹ 9/1/20 Tr. at 96:12-97:11.1.

Since the conclusion of the September 1, 2020 hearing on Fintiv's motion for leave, Fintiv continued diligently searching for evidence of third-party CorFire's meetings and pre-suit communications with Apple. After devoting numerous hours to this effort, with little success,

¹ "Ex. ___" refers to exhibits to the Declaration of Jonathan K. Waldrop ("Waldrop Decl."), filed contemporaneously herewith.

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Fintiv finally uncovered several expense reimbursement reports (“T&E Reports”) evidencing multiple meetings between CorFire and Apple in 2011 and 2012 – almost three years before Apple Pay launched in September 2014. Those meetings included: (1) a March 17, 2011 meeting between CorFire’s [REDACTED] and Apple’s [REDACTED] [REDACTED] (2) a July 4, 2011 meeting between [REDACTED] and Apple’s [REDACTED] (3) a July 25, 2011 meeting between [REDACTED] (4) an October 4, 2011 meeting between [REDACTED] and (5) a January 31, 2012 meeting between CorFire’s [REDACTED] [REDACTED] and Apple at Apple’s headquarters in Silicon Valley. Exs. 2-6.

Eubank, who at the time was CorFire’s Vice President of Channel Sales, recalled the January 31, 2012 meeting at Apple’s headquarters in Cupertino, California, and specifically recalled sharing CorFire’s mobile wallet technology, including a presentation about key aspects of its patented technologies, in an effort to partner with Apple in launching a mobile wallet. Declaration of George Eubank (“Eubank Decl.”), ¶ 6. Eubank specifically recalled making a presentation to Apple concerning CorFire’s products and services, including CorPay (CorFire’s mobile wallet technology) and its secure element chip and widget technologies for mobile wallets, and although he no longer has a copy of the specific written presentation shared with Apple, Fintiv was able to locate a presentation that Eubank confirmed was substantially similar to the one presented to Apple, a copy of which is attached to his Declaration submitted herewith. Eubank Decl., ¶ 7.

As evidenced in the newly discovered T&E Reports, CorFire’s [REDACTED] attended all five in-person meetings with Apple in 2011 and 2012. Exs. 2-6. At the time, [REDACTED] CorFire’s Senior Vice President, Europe & Merchant Accounts. Ex. 7. [REDACTED] left CorFire in 2014, and since 2015, he has been Apple’s Director of Apple Pay & Wallet Product Management. *Id.*

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and Apple when CorFire's mobile wallet technology was discussed—and who is now in charge of Apple Pay and Apple Wallet.

Apple served Initial Disclosures on November 14, 2019, and Supplemental Initial Disclosures on February 27, 2020, July 27, 2020, September 24, 2020, and June 23, 2021. Exs. 15-19. Despite supplementing its initial disclosures four times, Apple again failed to disclose as a person with knowledge [REDACTED] Apple did disclose [REDACTED]

[REDACTED] Ex. 19. Apple, however, failed to disclose that [REDACTED] had attended the March 17, 2011, July 4, 2011, July 25, 2011, and October 4, 2011 meetings with CorFire on behalf of Apple, that [REDACTED] has relevant information regarding these meetings, or even that the meetings ever occurred. Exs. 2-6.

II. ARGUMENT

A. The Trial Should be Continued to Allow for Reopening of Discovery

As shown above, the newly discovered evidence shows that during discovery Apple concealed the fact that it had five meetings with Fintiv's predecessor CorFire, obtained CorFire documents about the technology three years before Apple Pay launched with all the key functionalities described in the CorFire presentation, and even hired CorFire employees who had attended those meetings. Despite Fintiv's diligence (diligence this Court acknowledged at the September 1, 2020 hearing), Fintiv did not discover any of this evidence until very recently and was unable to produce the evidence in response to Apple's repeated discovery requests for information Apple itself already had concerning these matters – which plainly gave Apple the confidence to continue concealing them.

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As a matter of fundamental fairness, and to prevent Apple from profiting from its repeated discovery violations, Apple should be ordered to produce all documents related to these matters, including but not limited to the newly discovered meetings, and to produce for deposition [REDACTED] and any other witnesses who have knowledge of the meetings. *See e.g., Sw. Refrigerated Warehousing* 2017 WL 8777365, at *1; *Garcia v. Woman's Hosp. of Texas*, 97 F.3d 810 (5th Cir. 1996); *Garcia*, 97 F.3d at 814.

The requested relief here is critical because Apple's concealment hamstrung Fintiv in obtaining highly relevant, if not dispositive, evidence concerning at least infringement, non-obviousness, credibility of witnesses, damages, and potentially willful infringement. The Apple-CorFire meetings, CorFire's presentation to Apple about key aspects of the patented technology, and the 2010 pending patent application describing that technology constitute powerful evidence of at least copying and willful infringement. *See, e.g., KAIST IP US LLC v. Samsung Elecs. Co.*, 439 F. Supp. 3d 860, 884–85 (E.D. Tex. 2020) (upholding jury's finding of willful infringement based on presentations by inventor to infringer, infringer's knowledge that inventor had filed a patent application, and inventor's license offer to infringer prior to infringer's development of the accused product); *Liqwd, Inc. v. L'Oreal USA, Inc.*, 941 F.3d 1133, 1138-39 (Fed. Cir. 2019) (copying can be shown by having access to the invention and evidence of copying efforts, even without evidence that a specific patented product was copied); *i4i Ltd. P'ship v. Microsoft Corp.*, 598 F.3d 831, 860 (Fed. Cir. 2010), *aff'd*, 564 U.S. 91 (2011) (plaintiff presented sufficient evidence at trial to prove willful infringement where, *inter alia*, infringer reviewed plaintiff's materials and attended its presentation of the software, which practiced the technology described in the asserted patent). This is particularly so given that Apple subsequently hired at least two CorFire employees [REDACTED], and suppressed the evidence of the five pre-launch Apple-

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CorFire meetings during discovery. *See Avocent Huntsville, LLC v. ZPE Systems, Inc.*, 2018 WL 1411100, at *22 (N.D. Cal. 2018) (denying dismissal of willful infringement claim where accused infringer employed patentee's former employees); *Imperium IP Holdings (Cayman), Ltd. v. Samsung Elecs. Co.*, No. 4:14-CV-00371, 2017 WL 1716788, at *3 (E.D. Tex. Apr. 27, 2017) (defendants' material misrepresentations in their interrogatory responses and during trial regarding infringement and willfulness, and failure to produce relevant documents until trial, were sufficiently egregious to warrant enhanced damages).

Moreover, Rule 16(b) of the Federal Rules of Civil Procedure provides that a scheduling order may be modified "for good cause and with the judge's consent." *Fahim v. Marriott Hotel Servs., Inc.*, 551 F.3d 344, 348 (5th Cir. 2008) (internal quotation marks omitted). The factors guiding the "good cause" determination include: "(1) the party's explanation; (2) the importance of the requested relief; (3) potential prejudice in granting the relief; and (4) the availability of a continuance to cure such prejudice." *Green Hills Dev. Co. v. Credit Union Liquidity Servs., LLC*, 3:11-CV-1885-P, 2013 WL 12126783, at *2 (N.D. Tex. May 14, 2013); *see Sapp v. Mem'l Hermann Healthcare Sys.*, 406 Fed. Appx. 866, 869 (5th Cir. 2010) (*per curiam*) ("no single factor is dispositive, nor must all the factors be present"). A motion for continuance should be granted if a party discovers new information or the opposing side failed to produce documents. *See Sw. Refrigerated Warehousing Servs. Joint Venture v. M.A. & Sons, Inc.*, No. EP-16-CV-00421-DCG, 2017 WL 8777365, at *1 (W.D. Tex. Dec. 20, 2017) (granting motion for continuance where a party discovered new information and opposing party failed to turn over requested documents); *see also Advanced Display Systems, Inc. v. Kent State Univ.*, 212 F.3d 1272, 1284-86 (Fed. Cir. 2000) (applying Fifth Circuit law and reversing denial of new trial where a party "deliberately and intentionally withheld" key evidence pertaining to the issue of obviousness).

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Here, the explanation for and importance of the requested relief are plain, and Apple should not be heard to assert any prejudice because the requested relief is necessitated by its own wrongful conduct and evidence suppression. In any event, there is no prejudice to Apple because granting the relief will not change the status quo of Apple's continuous infringement without paying Fintiv's reasonable royalty.

B. Fintiv Should be Granted Leave to Amend its Complaint to Allege Claims Uncovered During Discovery

As discussed above, discovery related to meetings between the parties in which Fintiv or its predecessors discussed key aspects of CorFire's patented, innovative technology is relevant to numerous issues in this case, including the relationship between the parties, copying, indirect infringement, willful infringement, witness credibility, and trade secret misappropriation. Accordingly, Fintiv should be granted leave to amend its complaint to the extent discovery reveals any new claims. New information learned during discovery provides good cause to amend under Rule 16. *See, e.g., H&R Block Tax Servs., Inc. v. Jackson Hewitt Tax Serv., Inc.*, No. 6:08CV37, 2008 WL 11265109, at *3 (E.D. Tex. Dec. 23, 2008) (granting motion for leave when plaintiff did not discover "significant details" until after the deadline); *Cornell Univ. v. Illumina, Inc.*, No. 10-433-LPS-MPT, 2016 WL 3046258, at *5 (D. Del. May 27, 2016) (finding good cause met where the party's new allegations were based on "a new set of facts obtained and confirmed during discovery which took place after the Scheduling Order's deadline for amending pleadings"); *Sprint Comms. Co., L.P. v. Time Warner Cable, Inc.*, No. 11-2686-JWL, 2013 WL 6589564, *2 (D. Kan. 2013) (granting patentee leave to amend to add a claim of willful infringement, even though leave was sought four months after the deadline to amend pleadings, where patentee showed that before the deadline the accused infringer had denied all pre-suit knowledge of the patent). Apple, at best,

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negligently failed to discover and disclose this information earlier, and at worst, knowingly and willfully ignored its discovery obligations. *See, e.g., Pears v. Mobile County*, 645 F. Supp. 2d 1062, 1085-86 (S.D. Ala. 2009) (holding that where defendant carefully worded its discovery responses and pleadings to mislead plaintiff, the behavior constituted good cause to allow plaintiff to amend his pleadings after the amendment deadline). Indeed, a failure to grant Fintiv leave to amend would prevent Fintiv from presenting a full infringement case and would require Fintiv to go to trial on an incomplete record. *See LBS Innovations, LLC v. Aaron Bros., Inc.*, No. 2:11-CV-142, 2012 WL 12897919, at *2 (E.D. Tex. Nov. 9, 2012) (amendment should be allowed when “disallowing [it] would deprive Plaintiff of a plausible theory” for relief “and substantive review of the issues”). Here too, Apple should not be permitted to profit from failing to timely provide complete discovery of information in its possession.

C. Monetary Sanctions are Warranted

Based on the above conduct, Fintiv requests monetary sanctions against Apple to cover Fintiv’s costs for: (1) preparing and filing this motion; (2) cancelling trial accommodations; (3) litigating motions now mooted or requiring reconsideration; and (4) any other costs the Court deems just. Fed. R. Civ. P. 37(c)(1)(A) (authorizing the court to order payment of the reasonable expenses and attorney’s fees caused by the failure to disclose a witness).

III. CONCLUSION

For the foregoing reasons, Fintiv respectfully requests the Court reopen discovery for the limited purpose of obtaining documents and depositions from Apple about the 2011 and 2012 Apple-CorFire meetings, continue the currently-scheduled June 21, 2022 trial to a date two weeks after the completion of such discovery, allow Fintiv to supplement its pretrial disclosures, including witness and exhibits lists, as appropriate, and award monetary sanctions.

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Dated: June 6, 2022

RESPECTFULLY SUBMITTED,

By: /s/ Jonathan K. Waldrop

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FINTIV, INC.**

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was served or delivered electronically to all counsel of record via U.S. District Court [LIVE] — Document Filing System to all counsel of record on this 6th day of June, 2022.

/s/ Jonathan K. Waldrop _____

Jonathan K. Waldrop

PUBLIC VERSION

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FINTIV, INC.,

Plaintiff,

v.

APPLE INC.,

Defendant.

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Civil Action No.: 1:21-cv-00896-ADA

JURY TRIAL DEMANDED

**DECLARATION OF JONATHAN K. WALDROP IN SUPPORT OF
PLAINTIFF FINTIV, INC.’S EMERGENCY MOTION FOR
REOPENING OF DISCOVERY, TRIAL CONTINUANCE, AND SANCTIONS**

I, Jonathan K. Waldrop, declare as follows:

1. I am a Partner with the law firm of Kasowitz Benson Torres LLP and am one of the attorneys responsible for the representation of Plaintiff Fintiv, Inc. (“Fintiv” or “Plaintiff”) in this matter. I make this declaration in support of Plaintiff’s Emergency Motion for Reopening of Discovery, Trial Continuance, and Sanctions.

2. If called to testify under oath in court, I could and would testify competently to the facts stated herein.

3. Attached hereto as **Exhibit 1** is a true and correct copy of excerpts from the Transcript of the September 1, 2020 Videoconference Motion Hearing.

4. Attached hereto as **Exhibit 2** is a true and correct copy of the expense receipt for the March 17, 2011 meeting between [REDACTED] of SK C&C d/b/a Corfire (“CorFire”) and [REDACTED] of Defendant Apple Inc. (“Apple”).

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5. Attached hereto as **Exhibit 3** is a true and correct copy of the business expense reimbursement form for the July 4, 2011 meeting between [REDACTED] of CorFire and [REDACTED] of Apple.

6. Attached hereto as **Exhibit 4** is a true and correct copy of the business expense reimbursement form for the July 25, 2011 meeting between [REDACTED] of CorFire and [REDACTED] of Apple.

7. Attached hereto as **Exhibit 5** is a true and correct copy of the business expense reimbursement form for the October 6, 2011 meeting between [REDACTED] of CorFire and [REDACTED] of Apple.

8. Attached hereto as **Exhibit 6** is a true and correct copy of the business expense reimbursement report for the January 31, 2012 meeting between [REDACTED] of CorFire and Apple at Apple's headquarters in Silicon Valley.

9. Attached hereto as **Exhibit 7** is a true and correct copy of Pascal Caillon's LinkedIn profile.

10. Attached hereto as **Exhibit 8** is a true and correct copy of excerpts from the Transcript of the September 24, 2021 Pretrial Conference.

11. Attached hereto as **Exhibit 9** is a true and correct copy of Fintiv's Second Set of Interrogatories (Nos. 9-26) to Defendant Apple Inc. ("Apple"), served March 23, 2020.

12. Attached hereto as **Exhibit 10** is a true and correct copy of Apple's Responses and Objections to Fintiv's Second Set of Interrogatories (Nos. 9-26), served April 22, 2020.

13. Attached hereto as **Exhibit 11** is a true and correct copy of Fintiv's Third Set of Interrogatories (Nos. 27-28) to Apple, served June 22, 2020.

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14. Attached hereto as **Exhibit 12** is a true and correct copy of Apple's Responses and Objections to Fintiv's Third Set of Interrogatories (Nos. 27-28), served July 22, 2020.

15. Attached hereto as **Exhibit 13** is a true and correct copy of Fintiv's Second Set of Requests for Production of Documents (Nos. 38-62) to Apple, served March 23, 2020.

16. Attached hereto as **Exhibit 14** is a true and correct copy of Fintiv's Third Set of Requests for Production of Documents (Nos. 63-70) to Apple, served July 24, 2020.

17. Attached hereto as **Exhibit 15** is a true and correct copy of Apple's Initial Disclosures, served November 14, 2019.

18. Attached hereto as **Exhibit 16** is a true and correct copy of Apple's First Supplemental Initial Disclosures, served February 27, 2020.

19. Attached hereto as **Exhibit 17** is a true and correct copy of Apple's Second Supplemental Initial Disclosures, served July 27, 2020.

20. Attached hereto as **Exhibit 18** is a true and correct copy of Apple's Third Supplemental Initial Disclosures, served September 24, 2020.

21. Attached hereto as **Exhibit 19** is a true and correct copy of Apple's Fourth Supplemental Initial Disclosures, served June 23, 2021.

I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief, formed after reasonable inquiry under the circumstances.

Executed on the 6th day of June, 2022, in Redwood Shores, California.

/s/ Jonathan K. Waldrop
Jonathan K. Waldrop

Exhibit 1

Public Version

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FINTIV, INC.) Docket No. A 19-CA-1238 ADA
)
vs.) Austin, Texas
)
APPLE, INC.) September 1, 2020

TRANSCRIPT OF VIDEOCONFERENCE MOTION HEARING
BEFORE THE HONORABLE ALAN D. ALBRIGHT

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25 Proceedings reported by computerized stenography,
transcript produced by computer-aided transcription.

16:37:03 1 would not think that's relevant and would not implicate
16:37:07 2 wilfulness.

16:37:09 3 I have nothing further unless you have questions,
16:37:12 4 your Honor.

16:37:12 5 THE COURT: Mr. Quilici.

16:37:13 6 MR. QUILICI: I believe we've covered all that
16:37:17 7 ground several times, your Honor. So I will leave it at
16:37:19 8 that unless the Court has further questions.

16:37:20 9 THE COURT: I don't. I'm going to -- I'll be
16:37:23 10 back in just a couple of minutes.

16:38:43 11 (Recess.)

16:38:43 12 THE COURT: If we could go back on the record,
16:38:45 13 please. It looks like at least the folks who are arguing
16:38:51 14 are all on board, but, more importantly, Lily is.

16:38:55 15 So the Court is -- I think having done it a long
16:39:01 16 time myself, I certainly think plaintiff's counsel was
16:39:06 17 reasonably diligent. However, I also think Apple's
16:39:09 18 counsel was reasonably diligent. I understand your huge
16:39:17 19 disagreement over that, but that's my perception.
16:39:21 20 Therefore, I find that there is not good cause to allow
16:39:24 21 the amendment to add willfulness.

16:39:28 22 I will add that it is my -- I probably shouldn't,
16:39:36 23 but I will add, anyway, put on the record that I have a
16:39:41 24 very strong feeling -- especially I'm going to say this
16:39:46 25 because, ultimately, it will be up to me to decide from

16:39:48 1 everything I can see of this, I'm pretty certain I'd see
16:39:54 2 this as a -- it will be futile.

16:39:56 3 I understand, Mr. Waldrop, there's some discovery
16:39:59 4 you might have wanted to take, and I guess if right things
16:40:05 5 happen, wrong things, but I guess if the circuit decides I
16:40:08 6 should have allowed you to do this, then you'll get to do
16:40:11 7 that discovery. You'll get to amend your pleadings if
16:40:14 8 that's the way this goes.

16:40:16 9 But the Court finds that there's not good cause
16:40:18 10 to allow the amendment in this case. The Court is going
16:40:23 11 to lift the stay it had previously imposed. And if I
16:40:29 12 recall correctly, we're going to get additional briefing
16:40:31 13 on Friday.

16:40:33 14 Mr. Waldrop, is there anything else we need to
16:40:36 15 take up today?

16:40:37 16 MR. WALDROP: I don't think so, your Honor. I
16:40:43 17 think the lifting of the -- so the stay will be lifted as
16:40:46 18 of today, your Honor?

16:40:46 19 THE COURT: Yes, sir.

16:40:47 20 MR. WALDROP: Well, I appreciate you, your Honor.
16:40:50 21 I appreciate the time and thank you very much.

16:40:52 22 THE COURT: You're welcome.

16:40:53 23 Mr. Quilici, anything else from Apple?

16:40:55 24 MR. QUILICI: Regarding the scope of discovery
16:40:58 25 going forward, your Honor has indicated that injunctive

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UNITED STATES DISTRICT COURT)
WESTERN DISTRICT OF TEXAS)

I, LILY I. REZNIK, Certified Realtime Reporter,
Registered Merit Reporter, in my capacity as Official
Court Reporter of the United States District Court,
Western District of Texas, do certify that the foregoing
is a correct transcript from the record of proceedings in
the above-entitled matter.

I certify that the transcript fees and format comply
with those prescribed by the Court and Judicial Conference
of the United States.

WITNESS MY OFFICIAL HAND this the 24th day of September,
2020.

/s/Lily I. Reznik
LILY I. REZNIK, CRR, RMR
Official Court Reporter
United States District Court
Austin Division
501 W. 5th Street,
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Austin, Texas 78701
(512) 391-8792
SOT Certification No. 4481
Expires: 1-31-21

Exhibit 2
Filed Under Seal

Exhibit 3
Filed Under Seal

Exhibit 4
Filed Under Seal

Exhibit 5
Filed Under Seal

Exhibit 6
Filed Under Seal

Exhibit 7

Public Version

Contact

www.linkedin.com/in/pascalcaillon
(LinkedIn)

Top Skills

Mobile Payments
Mobile Devices
Mobile Commerce

Patents

Mobile account authentication service
Methods for launching a program application
System and method of predictive data acquisition
Auto start configuration with portable mass storage device
Mobile memory system for secure storage and delivery of media content

Pascal Caillon

Director, Apple Pay & Wallet Product Management
San Francisco

Summary

25+ years of experience in product management and business development in payment and mobile commerce:

Product development, go-to-market, and ramp-up of widely adopted mobile commerce services: Apple Pay for app/Web, Apple App Clip, DOne international top-ups, Dunkin' wallet app, Mobile Verified-by-Visa, the first mobile ATM locator, and iTunes micropayment aggregation

Payment expertise and in-depth understanding of mobile commerce technologies and effective user experiences

Successful geo expansions with P&L responsibility and international team building

Strategic alliances development, industry association formation, and investments within the m-commerce ecosystem

Experience

Apple

Director of # Pay eCommerce Product Management & BD
August 2015 - Present (6 years 11 months)
Cupertino, CA

Currently, leading the product team in charge of # Pay product roadmap for # Pay e-Commerce (app/app clip, Web) and ancillary e-commerce services. Previously, drove # Pay acceptance with merchants, service providers, marketplaces, and e-commerce platforms.

Location Sciences

General Manager, North America
June 2014 - July 2015 (1 year 2 months)
San Francisco

Built up and managed Location Sciences (formerly, Proxama) business (EMV/HCE tokenization, iBeacon/NFC tag mobile marketing) for the North American region.

Mastercard

Consultancy - Merchant Value Proposition Development

January 2014 - May 2014 (5 months)

San Francisco

Development of C-SAM (acquired by MasterCard) value proposition to penetrate merchants (McDonald's, Walmart) and transit segments (CTA).

SK C&C USA (dba CORFIRE)

Senior Vice-President, Europe & Merchant Accounts

April 2011 - January 2014 (2 years 10 months)

New York, United States

Established CorFire presence in Europe and developed mobile wallet merchant offering.

TransferTo (Ingenico)

Vice-President, North-America

December 2009 - March 2011 (1 year 4 months)

New York, NY

Started up TransferTo business in the Americas with team recruitment, product roadmap adaptation to the local market, and securing strategic accounts and partnerships.

TransferTo is a Singapore-based mobile remittance provider allowing foreign workers to send airtime (top-up) to friends and family at home. The company was acquired by Ingenico.

SanDisk Corp.

Director of New Product Development

April 2005 - September 2010 (5 years 6 months)

New York, NY

Managed the team responsible for developing VAS memory card products, negotiating supporting partnerships and investments, and driving first market introductions.

VISA

Director of New e-Commerce Channels

September 1996 - March 2005 (8 years 7 months)

Led VISA global initiative to capture emerging payment opportunities in new e-commerce channels by adapting VISA card payment products,

establishing standardization forums, and partnering with top financial institutions, merchants, and mobile operators.

Societe Generale

International Relations Manager

October 1994 - May 1996 (1 year 8 months)

Athens, Greece

Participated in the Greek branch reorganization within Société Générale's global restructuring efforts involving 100 branches worldwide.

Education

ENSEEIHT - Ecole Nationale Supérieure d'Electrotechnique, d'Electronique, d'Informatique, d'Hydraulique et des Télécommunications

Masters, Applied Mathematics and Computer Science · (1991 - 1994)

UC Berkeley Extension

Marketing · (1999 - 2001)

Exhibit 8
Filed Under Seal

Exhibit 9

Public Version

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

FINTIV, INC.,

Plaintiff,

v.

APPLE INC.,

Defendant.

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Civil Action No.: 1:19-cv-01238-ADA

JURY TRIAL DEMANDED

**PLAINTIFF FINTIV, INC.’S SECOND SET OF INTERROGATORIES TO
DEFENDANT APPLE INC.**

PLEASE TAKE NOTICE that, Rules 26 and 33 of the Federal Rules of Civil Procedure, and the Local Rules of this Court, Plaintiff Fintiv, Inc. (“Plaintiff” or “Fintiv”), hereby requests that Defendant Apple Inc. (“Defendant” or “Apple”) answer the following interrogatories in accordance with the Definitions and Instructions set forth below, in writing and under oath within thirty (30) days of service hereof. These interrogatories are continuing in character so as to require Apple to serve supplemental responses whenever it obtains different or additional information relating to these interrogatories, as required by Federal Rule of Civil Procedure 226(e).

The following definitions and instructions shall apply to all requests herein.

DEFINITIONS

1. “Apple,” “Defendant,” “You” or “Your” means and includes Defendant Apple Inc., and all subsidiaries and affiliates thereof, all affiliates, related entities, parents, branches, subsidiaries, divisions, predecessors, successors, and assigns, and all present and past officers, directors, employees, agents, consultants, attorneys, accountants, administrators, representatives,

investigators, distributors, salespersons, sales representative, licensors, licensees, and all other persons or organizations or others acting or purporting to act on behalf, or under the control, of each of the foregoing, including all temporary employees and independent contractors.

2. “Fintiv” or “Plaintiff” means Plaintiff Fintiv, Inc., its officers, directors, employees, partners, corporate parent, subsidiaries or affiliates.

3. “The Action,” “this Action,” or “the Lawsuit” means the above-captioned lawsuit, *Fintiv, Inc., v. Apple Inc.*, C.A. No. 1:19-cv-01238-ADA, pending in the United States District Court for the Western District of Texas.

4. “Complaint” means Fintiv’s Second Amended Complaint filed on January 30, 2020.

5. “Patent-in-Suit” or “Asserted Patent” means U.S. Patent No. 8,843,125.

6. “Interrogatory” or “Interrogatories” means Fintiv’s related and/or identified Interrogatories served in this action.

7. “Accused Technology” means any and all technology related to mobile wallet application software and hardware, mobile payment software and hardware, contactless payment software and hardware, NFC secure element implementation for wallet applications and virtual cards, communications between a mobile device and a trusted service manager related to a mobile wallet application and/or virtual cards, and Apple software and infrastructure that facilitate implementation of a mobile wallet application and/or virtual cards.

8. “Related Patent(s)” or “Related Patent Application(s)” means: (a) any patent or patent application in the chain of patents and patent applications that led to the issuance of the Patent-in-Suit; (b) any continuation, continuation-in-part, or division of any such application, whether or not such continuation, continuation-in-part, or division has been abandoned or is

currently pending; (c) any reexaminations, reissue applications, or applications by or through which the Patent-in-Suit claims priority; (d) and patents or applications that are referenced in or incorporated by reference into the Patent-in-Suit; or (e) any patents or applications claiming priority to (a), (b), or (c) above, including without limitation foreign counterparts.

9. “Accused Products” or “Accused Product” means and includes Apple Pay, Apple’s Wallet Application, Apple iPhone devices (including, at least, iPhone 6, 6 Plus, 6s, 6s Plus, SE, 7, 7 Plus, 8, 8 Plus, X, XR, XS, XS Max, 11, 11 Pro, and 11 Pro Max), Apple Watch devices (including, at least, Original, Series 1, Series 2, Series 3, Series 4, and Series 5), Apple iPad devices (including, at least, iPad Pro, iPad Air, iPad, and iPad mini models with Touch ID or Face ID), Apple Mac devices (including, at least, Mac devices with Touch ID), Apple’s related supporting infrastructure, and associated hardware and software.

10. “Wallet Cards” means and includes cards, passes, tickets, and coupons that can be added to Apple’s devices (iPhone devices, Watch devices, iPad devices, and Mac devices), including credit cards (*e.g.*, Visa card; Mastercard; Apple Card), debit cards, prepaid cards, store cards, boarding passes, movie tickets, coupons, rewards cards, and student ID cards.

11. “Software” means and includes firmware, source code, object code, or other application, program, procedure, instructions or algorithm for execution by a computer, processor, microcontroller, or integrated circuit of any kind.

12. “Hardware” means physical components of a device, including processors, integrated circuits, semiconductors, printed circuit boards, wires, passives, switches, connectors, fasteners, motors, actuators, and subsystems, modules, and/or components within a device that themselves contain such components.

13. “Source Code” means computer code, scripts, assembly, binaries, object code, source code listings and descriptions of source code, object code listings and descriptions of object code, Hardware Description Language (HDL) or Register Transfer Level (RTL) files that describe the hardware design of any ASIC or other chip, and Computer Aided Design (CAD) files that describe the hardware design of any component. Source Code further means human-readable form of a computer program written in high level or assembly language and includes html files; xml files; source code listings; compiler and/or assembler output listings for such source code; source code listings for macros or “includes” (both executable and mapping) listings used in such source code; job control language files; and/or other files required to create an executable version of a program, including user interface components; panels; screen definitions and help text; and c-lists.

14. As used herein, “product” and “products” are used in its broadest sense and means any product, device, apparatus, component, or other instrumentality.

15. “Date” means the exact day, month, and year if so ascertainable, or if not, the best approximation (including relationship to seasons and other events).

16. “Infringe” or any variant thereof, including but not limited to “infringing” and “infringement,” refers to any infringement under 35 U.S.C. § 271, whether direct, indirect, by equivalents, contributory, by inducement, literal, joint, or by the doctrine of equivalents.

17. “Document” or “Documents” means the original and each non-identical copy of any written, printed, typed, recorded, computerized, electronic, taped, graphic, or other matter, in whatever form, whether final or draft, including but not limited to all materials and things that constitute “writings,” “recordings,” or “photographs” within the meaning of Rule 1001 of the Federal Rules of Evidence or “documents” within the meaning of Rule 34 of the Federal Rules of Civil Procedure. The terms “Document” or “Documents” include without limitation,

electronically stored information, electronic mail, or e-mail, intra, or inter-office communications (as defined herein), transcripts, judicial pleadings, petitions, motions, declarations, affidavits, electronic, magnetic, optical, or magneto-optical records, computer data, however stored, including data stored on or in diskettes or cartridges and disk drives, data cards, data processing files and other computer-readable records or programs, object code, source code, microcode, or anything similar to any of the foregoing, however denominated by the responding party. Any Document bearing any marks, including without limitation initials, stamped indicia, comments, highlighting, marginalia, or other notations not a part of the original text or reproduction thereof, is a separate Document that is also included in the request.

18. As used herein, “thing(s)” refers to any physical specimen or tangible item, including research and development models, samples, prototypes and the like.

19. The term “Describe,” when used with reference to a technology, means to (a) describe it with specificity; (b) identify all uses You have made, are making, or plan to make of it; (c) describe each system, service, method, or apparatus (including any research or engineering project) developed, made, used, imported, sold, or offered to sell in the United States by You, or that you intend to develop, make, use, import, sell, or offer for sale in the United States, that uses it; (d) identify all internal or commercial names or designations.

20. Identify, with respect to persons, means to give, to the extent, known, the person's full name, present or last known address, e-mail address, and telephone number, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, on the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

21. Identify, with respect to documents, means to give, to the extent known, the (i) type

of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s), and recipient(s).

22. “Concern,” “Concerning,” “Relate,” “Related” or “Relating” shall mean referring to, relating to, describing, evidencing, constituting, or otherwise discussing in any way the subject matter identified in a request.

23. “Persons” or “Person” means a natural person, corporation, company, partnership, proprietorship, joint venture, business, association, legal entity, or governmental entity.

24. “Partners” or “Partner” means a business entity that has worked with Apple to use and/or implement the Accused Products without authorization or license from Fintiv.

25. “Communication(s)” means any form of oral or written interchange or attempted interchange, formal or informal, at any place or under any circumstances whatsoever whereby information of any nature is transmitted or transferred, including but not limited to any note, memorandum, letter, correspondence or other document, electronic mail message, telephone call, and/or conversation, discussion, meeting and/or other record thereof, or a single person seeing or hearing any information by any means.

26. As used herein, “include” and “including” shall be construed to mean “without limitation,” so as to give the broadest possible meaning to requests and definitions containing those words.

27. The words “and” and “or” shall be construed conjunctively or disjunctively, whichever makes the request most inclusive.

28. As used herein, the singular of any word shall include the plural, and the plural shall include the singular.

29. As used herein, “any” and “all” shall each be construed to mean “each and every,” so as to acquire the broadest meaning possible.

30. The term “Regarding” as used herein shall be construed in the broadest possible sense, and mean without limitation and whether in whole or in part: referring to, constituting, bearing upon, commenting upon, reflecting, evidencing, pertaining to, describing, resulting from, depicting, consisting of, containing, comprising, embodying, identifying, stating, discussing, analyzing, studying, summarizing, dealing with, mentioning, relating to, or having any logical or factual connection whatsoever with the subject addressed, regardless whether the factual connection is favorable to or adverse to You.

31. All interrogatories are for discovery purposes only and are not to be construed as limiting or reflecting Fintiv’s positions in this case.

INSTRUCTIONS

1. These interrogatories are to be read and interpreted in accordance with the Federal Rules of Civil Procedure, the Court’s Local Rules, and the Instructions and Definitions set forth herein.

2. Each interrogatory shall be answered separately and fully, unless it is objected to, in which event the reasons for the objections should be specifically and separately stated. Should Apple claim that any particular interrogatory is beyond the scope of permissible discovery, specify in detail each and every ground on which such claim rests. If Apple finds any portion of any interrogatory or any term used in an interrogatory to be vague, ambiguous, subject to varying interpretations, or unclear, state what portion of the interrogatory or term Apple finds to be vague, ambiguous, subject to varying interpretations, or unclear, state Apple’s understanding of the interrogatory or term, and respond in accordance with that understanding.

3. If Apple withholds or redacts any responsive information based on a claim of privilege or any other claim of immunity from discovery, then for each item of information, document, or communication withheld, state the applicable claim (*e.g.*, “attorney-client privilege,” “work product doctrine,” etc.) and provide the facts allegedly giving rise to the claim of privilege or other immunity with sufficient detail to enable Fintiv to assess, and the Court to adjudicate, the applicability of the privilege or protection as required by Federal Rule of Civil Procedure 26(b)(5), including without limitation, identifying the date of the information, document, or communication, its author, and all recipients (including copy and blind copy recipients) of the information, document, or communication, and the general subject matter of the information, document, or communication withheld.

4. Answers to these interrogatories shall set out each interrogatory in full before each answer. Separate answers shall be given in response to each interrogatory.

INTERROGATORIES

INTERROGATORY NO. 9:

For each Accused Product, Identify the number of Wallet Cards (defined above) that have been made available for use in Apple’s devices (iPhones, Watches, iPads, and Macs) monthly (or quarterly if monthly does not exist, or annual if neither monthly nor quarterly exist) from 2012 to the present.

INTERROGATORY NO. 10:

Describe, step-by-step, how each Wallet Card is made available for use in an Apple iPhone device (*e.g.*, iPhone 11), including all communications between the relevant Hardware and Software components of the Apple iPhone device, Apple’s servers, and/or third-party servers. As part of Your response, Identify in detail all Software, data and/or information that are installed in the Apple iPhone device and the corresponding storage locations, the relevant Source Code and

technical documentation that supports Your response, and the persons most knowledgeable regarding technical details related to this response.

INTERROGATORY NO. 11:

Describe, step-by-step, how each Wallet Card is made available for use in an Apple Watch device (*e.g.*, Watch Series 5), including all communications between the relevant Hardware and Software components of the Apple Watch device, Apple's servers, and/or third-party servers. As part of Your response, Identify in detail all Software, data and/or information that are installed in the Apple Watch device and the corresponding storage locations, the relevant Source Code and technical documentation that supports Your response, and the persons most knowledgeable regarding technical details related to this response.

INTERROGATORY NO. 12:

Describe, step-by-step, how each Wallet Card is made available for use in an Apple iPad device (*e.g.*, iPad Air 2), including all communications between the relevant Hardware and Software components of the Apple iPad device, Apple's servers, and/or third-party servers. As part of Your response, Identify in detail all Software, data and/or information that are installed in the Apple iPad device and the corresponding storage locations, the relevant Source Code and technical documentation that supports Your response, and the persons most knowledgeable regarding technical details related to this response.

INTERROGATORY NO. 13:

Describe, step-by-step, how each Wallet Card is made available for use in an Apple Mac device (*e.g.*, MacBook Pro), including all communications between the relevant Hardware and Software components of the Apple Mac device, Apple's servers, and/or third-party servers. As part of Your response, Identify in detail all Software, data and/or information that are installed in

the Apple Mac device and the corresponding storage locations, the relevant Source Code and technical documentation that supports Your response, and the persons most knowledgeable regarding technical details related to this response.

INTERROGATORY NO. 14:

Identify the number of Apple's iPhone and Watch devices that (1) were preloaded with Apple's Wallet Application, (2) received Apple's Wallet Application through an operating system update, or (3) received Apple's Wallet's Application by some other means, monthly (or quarterly if monthly does not exist, or annual if neither monthly nor quarterly exist) from 2012 to the present.

INTERROGATORY NO. 15:

Identify the Date(s) when Apple became first aware of the Asserted Patent, the Related Patents, and the Related Patent Applications.

INTERROGATORY NO. 16:

Describe with specificity all actions taken by Apple, if any, in response to Apple's awareness of the Asserted Patent, including, without limitation, Apple's investigations regarding the scope of the Asserted Patent, Apple's efforts to investigate the possibility of infringement, Apple's efforts to investigate the validity of the Asserted Patent, Apple's efforts to design around the Asserted Patent, Apple's efforts to instruct others regarding how to avoid infringement, and Apple's efforts to seek legal advice/opinions of counsel regarding infringement and validity issues, stating the date(s) of such efforts and the identity of any Documents or Communications concerning such efforts.

INTERROGATORY NO. 17:

For each Accused Product, Describe the steps Apple took, if any, to ensure that it did not infringe any patents Related to the Accused Technology, and in doing so, clearly explain whether

Apple conducted a freedom to operate search for such patents and whether Apple obtained an opinion of counsel of non-infringement or invalidity (and if so, Identify the patents analyzed).

INTERROGATORY NO. 18:

Identify and Describe each and every agreement (*e.g.*, patent license agreements, cross-licenses, covenants-not-to-sue, and settlement agreements) and contract with third parties Relating to the Accused Technology, including the date, title, parties involved, and the payment terms.

INTERROGATORY NO. 19:

For each Accused Product, Identify and Describe in detail, Apple's decision-making process in connection with its decision to provide Apple Pay; the reason, motivation, considerations, advantages and risks involved in that decision; the individuals involved in that decision; and whether Apple's executives discussed and/or approved that decision, and if so, each of their names and titles, and any Documents by Bates number relating to that decision.

INTERROGATORY NO. 20:

Describe in detail the benefits, tangible and intangible, that Apple has received from providing the Apple Pay service, including Apple's calculation and evaluation of such benefits, and the reasons that Apple had not provided the Apple Pay service at an earlier time.

INTERROGATORY NO. 21:

For each Accused Product, Describe in detail Apple's cost of development as it relates to Apple Pay. Apple's answer should include detailed bills of materials with the cost for each component and any associated labor or other manufacturing charges, as well as cost breakdowns for research and development costs.

INTERROGATORY NO. 22:

For each of Apple's four device categories (iPhone devices, Watch devices, iPad devices, and Mac devices), Identify a representative product for each category as Relating to Apple Pay.

INTERROGATORY NO. 23:

For the Wallet Application, Identify a representative version as Relating to Apple Pay.

INTERROGATORY NO. 24:

Describe in detail Apple's employees' use of the Accused Products for the purposes of research, development, design and testing in connection with Apple Pay, and public demonstration Relating to Apple Pay, from 2012 until the present.

INTERROGATORY NO. 25:

Identify any and all patent licenses entered into by Apple that Apple contends are technically comparable to the Asserted Patent.

INTERROGATORY NO. 26:

Identify all non-parties with whom Apple has had any contact or communication regarding any issue in this Action. For each non-party, Identify the date of, substance of, and persons involved in the contact or communication.

Dated: March 23, 2020

RESPECTFULLY SUBMITTED,

By: /s/ Andy Tindel

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**Attorneys for Plaintiff
FINTIV, INC.**

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing instrument was served or delivered electronically to Apple's counsel of record, on this 23rd day of March, 2020.

/s/ Andy Tindel

Andy Tindel

Exhibit 10
Filed Under Seal

Exhibit 11

Public Version

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

FINTIV, INC.,

Plaintiff,

v.

APPLE INC.,

Defendant.

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Civil Action No.: 1:19-cv-01238-ADA

JURY TRIAL DEMANDED

**PLAINTIFF FINTIV, INC.'S THIRD SET OF INTERROGATORIES TO
DEFENDANT APPLE INC.**

PLEASE TAKE NOTICE that, Rules 26 and 33 of the Federal Rules of Civil Procedure, and the Local Rules of this Court, Plaintiff Fintiv, Inc. (“Plaintiff” or “Fintiv”), hereby requests that Defendant Apple Inc. (“Defendant” or “Apple”) answer the following interrogatories in accordance with the Definitions and Instructions set forth below, in writing and under oath within thirty (30) days of service hereof. These interrogatories are continuing in character so as to require Apple to serve supplemental responses whenever it obtains different or additional information relating to these interrogatories, as required by Federal Rule of Civil Procedure 226(e).

The following definitions and instructions shall apply to all requests herein.

DEFINITIONS

1. “Apple,” “Defendant,” “You” or “Your” means and includes Defendant Apple Inc., and all subsidiaries and affiliates thereof, all affiliates, related entities, parents, branches, subsidiaries, divisions, predecessors, successors, and assigns, and all present and past officers, directors, employees, agents, consultants, attorneys, accountants, administrators, representatives,

investigators, distributors, salespersons, sales representative, licensors, licensees, and all other persons or organizations or others acting or purporting to act on behalf, or under the control, of each of the foregoing, including all temporary employees and independent contractors.

2. “SK C&C” means and includes SK C&C Co., Ltd, SK C&C USA, Inc., and any of their respective subsidiaries, affiliates, related entities, parents, branches, divisions, predecessors, successors, and assigns, and all present and past officers, directors, employees, agents, partners, consultants, attorneys, accountants, administrators, representatives, investigators, distributors, salespersons, sales representatives, licensors, licensees, and all other persons or organizations or others acting or purporting to act on behalf, or under the control, of each of the foregoing, including all temporary employees and independent contractors.

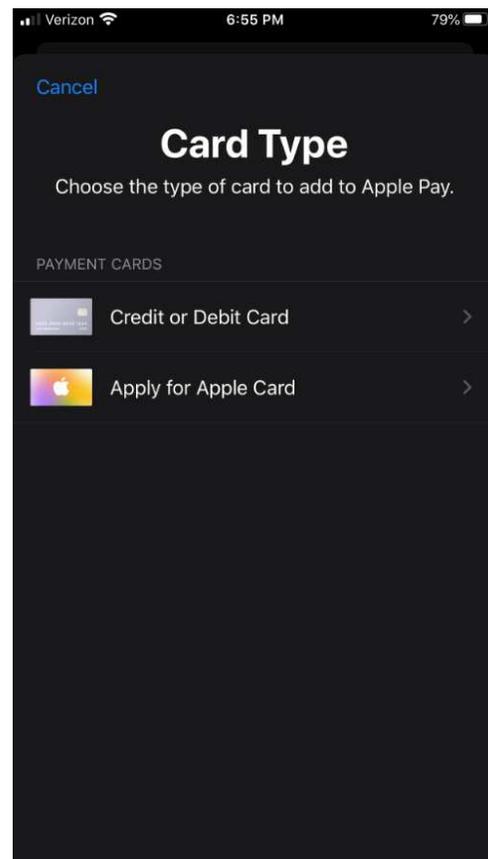
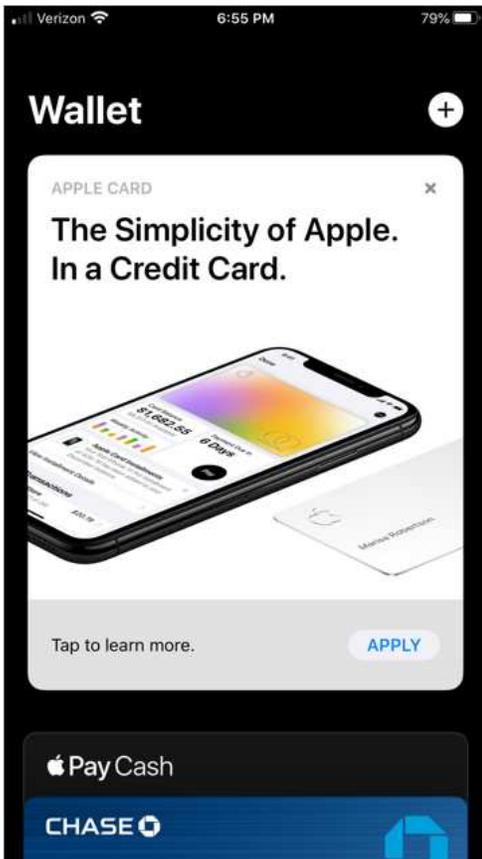
3. “Jason Miller” or “Mr. Miller” means Jason Miller, who is, upon information and belief, currently employed at Apple as an Apple Pay and Wallet Product employee, and was previously employed at Apple as an Apple Pay Program Manager at Apple, and as a Senior Project Manager – Apple Pay prior to that. Immediately before he became an Apple employee in September 2015, Mr. Miller was employed at SK C&C as an m-Commerce Global Product & New Business Development Manager. For reference, a true and correct copy of Mr. Miller’s LinkedIn profile is attached hereto as **Exhibit 1**.

4. “The Action,” “this Action,” “the Lawsuit,” or “this Lawsuit” means the above-captioned lawsuit, *Fintiv, Inc., v. Apple Inc.*, C.A. No. 1:19-cv-01238-ADA, pending in the United States District Court for the Western District of Texas.

5. “Interrogatory” or “Interrogatories” means Fintiv’s related and/or identified Interrogatories served in this action.

6. “Accused Technology” means any and all technology related to mobile wallet application software and hardware, mobile payment software and hardware, contactless payment software and hardware, NFC secure element implementation for wallet applications and virtual cards, communications between a mobile device and a trusted service manager related to a mobile wallet application and/or virtual cards, and Apple software and infrastructure that facilitate implementation of a mobile wallet application and/or virtual cards.

7. “Payment Card” means a virtual card that can be loaded onto an end user’s “Wallet” (also referred to as “Wallet & Apple Pay” or any other naming conventions used by Apple to refer to the Apple mobile wallet) which allows users to purchase goods and services through use of Apple Pay, including but not limited to the payment cards (also referred to as “card”) that can be loaded onto the Apple Wallet as shown in the examples below.





Add a card on your Apple Watch

1. Open the Apple Watch app on your iPhone, and go to the My Watch tab. If you have multiple watches, choose one.
2. Tap Wallet & Apple Pay.
3. Follow the steps to add a card.⁶ To add a new card, tap Add Card. If you're asked to add [the card that you use with your Apple ID](#), cards on other devices, or cards that you've recently removed, choose them, then enter the card security codes. In China mainland, you might be required to create or update a 6-digit passcode.
4. Tap Next. Your bank or card issuer will verify your information and decide if you can use your card with Apple Pay. If your bank or issuer needs more information to verify your card, they'll ask you for it. When you have the information, go back to Wallet & Apple Pay and tap your card.
5. After your bank or issuer verifies your card, tap Next. [Then start using Apple Pay.](#)

See [how to add Apple Card to Wallet on your Apple Watch](#).⁴

And learn [what to do if you can't add your card to Wallet](#).

Add a card on your iPad

1. Go to Settings > Wallet & Apple Pay.
2. Tap Add Card.⁶
3. Follow the steps to add a new card. If you're asked to add [the card that you use with your Apple ID](#), cards on other devices, or cards that you've recently removed, choose them, then enter the card security codes.
4. Tap Next. Your bank or card issuer will verify your information and decide if you can use your card with Apple Pay. If your bank or issuer needs more information to verify your card, they'll ask you for it. When you have the information, go back to Settings > Wallet & Apple Pay and tap your card.
5. After your bank or issuer verifies your card, tap Next. [Then start using Apple Pay.](#)

See [how to add Apple Card to Wallet on your iPad](#).

And learn [what to do if you can't add your card to Wallet](#).

Add a card on your Mac



To add a card to Apple Pay, you need a Mac model with Touch ID. On Mac models without built-in Touch ID, you can complete your purchase using Apple Pay on your eligible iPhone or Apple Watch: On your iPhone, go to Settings > Wallet & Apple Pay and turn on Allow Payments on Mac.

Here's how to add a card to your Mac model with Touch ID:

1. On your Mac model with Touch ID, go to System Preferences > Wallet & Apple Pay.
2. Tap Add Card.^{3,6}
3. Follow the steps to add a new card. If you're asked to add [the card that you use with your Apple ID](#), just enter its security code.
4. Tap Next. Your bank or card issuer will verify your information and decide if you can add your card to Apple Pay. If your bank or issuer needs more information to verify your card, they'll ask you for it. When you have the information, go back to System Preferences > Wallet & Apple Pay and tap your card.
5. After your bank or issuer verifies your card, tap Next. [Then start using Apple Pay.](#)

See [how to add Apple Card to Wallet on your Mac.](#)⁴

And learn [what to do if you can't add your card to Wallet.](#)

Person to person payments with Apple Pay and Apple Cash aren't available in macOS.

8. "Wallet" means the mobile wallet identified in the screenshots (above) as "Wallet" or "Wallet & Apple Pay" or any other naming conventions used by Apple to refer to the Apple mobile wallet that allows users to purchase goods and services through use of Apple Pay on Apple devices.

9. As used herein, “product” and “products” are used in its broadest sense and means any product, device, apparatus, component, or other instrumentality.

10. “Document” or “Documents” means the original and each non-identical copy of any written, printed, typed, recorded, computerized, electronic, taped, graphic, or other matter, in whatever form, whether final or draft, including but not limited to all materials and things that constitute “writings,” “recordings,” or “photographs” within the meaning of Rule 1001 of the Federal Rules of Evidence or “documents” within the meaning of Rule 34 of the Federal Rules of Civil Procedure. The terms “Document” or “Documents” include without limitation, electronically stored information, electronic mail, or e-mail, intra, or inter-office communications (as defined herein), transcripts, judicial pleadings, petitions, motions, declarations, affidavits, electronic, magnetic, optical, or magneto-optical records, computer data, however stored, including data stored on or in diskettes or cartridges and disk drives, data cards, data processing files and other computer-readable records or programs, object code, source code, microcode, or anything similar to any of the foregoing, however denominated by the responding party. Any Document bearing any marks, including without limitation initials, stamped indicia, comments, highlighting, marginalia, or other notations not a part of the original text or reproduction thereof, is a separate Document that is also included in the request.

11. As used herein, “thing(s)” refers to any physical specimen or tangible item, including research and development models, samples, prototypes and the like.

12. The term “Describe,” when used with reference to a technology, means to (a) describe it with specificity; (b) identify all uses You have made, are making, or plan to make of it; (c) describe each system, service, method, or apparatus (including any research or engineering project) developed, made, used, imported, sold, or offered to sell in the United States by You, or

that you intend to develop, make, use, import, sell, or offer for sale in the United States, that uses it; (d) identify all internal or commercial names or designations.

13. Identify, with respect to persons, means to give, to the extent, known, the person's full name, present or last known address, e-mail address, and telephone number, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, on the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

14. Identify, with respect to documents, means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s), and recipient(s).

15. "Concern," "Concerning," "Relate," "Related" or "Relating" shall mean referring to, relating to, describing, evidencing, constituting, or otherwise discussing in any way the subject matter identified in a request.

16. "Persons" or "Person" means a natural person, corporation, company, partnership, proprietorship, joint venture, business, association, legal entity, or governmental entity.

17. "Communication(s)" means any form of oral or written interchange or attempted interchange, formal or informal, at any place or under any circumstances whatsoever whereby information of any nature is transmitted or transferred, including but not limited to any note, memorandum, letter, correspondence or other document, electronic mail message, telephone call, and/or conversation, discussion, meeting and/or other record thereof, or a single person seeing or hearing any information by any means.

18. As used herein, “include” and “including” shall be construed to mean “without limitation,” so as to give the broadest possible meaning to requests and definitions containing those words.

19. The words “and” and “or” shall be construed conjunctively or disjunctively, whichever makes the request most inclusive.

20. As used herein, the singular of any word shall include the plural, and the plural shall include the singular.

21. As used herein, “any” and “all” shall each be construed to mean “each and every,” so as to acquire the broadest meaning possible.

22. The term “Regarding” as used herein shall be construed in the broadest possible sense, and mean without limitation and whether in whole or in part: referring to, constituting, bearing upon, commenting upon, reflecting, evidencing, pertaining to, describing, resulting from, depicting, consisting of, containing, comprising, embodying, identifying, stating, discussing, analyzing, studying, summarizing, dealing with, mentioning, relating to, or having any logical or factual connection whatsoever with the subject addressed, regardless whether the factual connection is favorable to or adverse to You.

23. All interrogatories are for discovery purposes only and are not to be construed as limiting or reflecting Fintiv’s positions in this case.

INSTRUCTIONS

1. These interrogatories are to be read and interpreted in accordance with the Federal Rules of Civil Procedure, the Court’s Local Rules, and the Instructions and Definitions set forth herein.

2. Each interrogatory shall be answered separately and fully, unless it is objected to, in which event the reasons for the objections should be specifically and separately stated. Should Apple claim that any particular interrogatory is beyond the scope of permissible discovery, specify in detail each and every ground on which such claim rests. If Apple finds any portion of any interrogatory or any term used in an interrogatory to be vague, ambiguous, subject to varying interpretations, or unclear, state what portion of the interrogatory or term Apple finds to be vague, ambiguous, subject to varying interpretations, or unclear, state Apple's understanding of the interrogatory or term, and respond in accordance with that understanding.

3. If Apple withholds or redacts any responsive information based on a claim of privilege or any other claim of immunity from discovery, then for each item of information, document, or communication withheld, state the applicable claim (*e.g.*, "attorney-client privilege," "work product doctrine," etc.) and provide the facts allegedly giving rise to the claim of privilege or other immunity with sufficient detail to enable Fintiv to assess, and the Court to adjudicate, the applicability of the privilege or protection as required by Federal Rule of Civil Procedure 26(b)(5), including without limitation, identifying the date of the information, document, or communication, its author, and all recipients (including copy and blind copy recipients) of the information, document, or communication, and the general subject matter of the information, document, or communication withheld.

4. Answers to these interrogatories shall set out each interrogatory in full before each answer. Separate answers shall be given in response to each interrogatory.

INTERROGATORIES

INTERROGATORY NO. 27:

Describe Your communications with SK C&C and Your knowledge of SK C&C's intellectual property (*e.g.*, the Patent-in-Suit) prior to this Action, including but not limited to, when you first communicated with SK C&C's former employee Jason Miller, the circumstances surrounding Your hiring of Mr. Miller from SK C&C, why You decided to hire Mr. Miller, what Mr. Miller has worked on and continues to work on during his employment at Apple, and whether Mr. Miller had knowledge of SK C&C's intellectual property, including the Patent-in-Suit.

INTERROGATORY NO. 28:

Identify all Trusted Service Managers ("TSMs") that are utilized when an end user adds a Payment Card to the end user's mobile Wallet on the end user's Apple iPhone, Apple Watch, Apple iPad, or Apple Mac, as part of your response, describe in detail which TSM(s) are utilized for each Payment Card.

Dated: June 22, 2020

RESPECTFULLY SUBMITTED,

By: /s/ Andy Tindel

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Attorneys for Plaintiff
FINTIV, INC.

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing instrument was served or delivered electronically to Apple's counsel of record, on this 22nd day of June, 2020.

/s/ Andy Tindel

Andy Tindel

Exhibit 12
Filed Under Seal

Exhibit 13

Public Version

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

FINTIV, INC.,

Plaintiff,

v.

APPLE INC.,

Defendant.

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Civil Action No.: 1:19-cv-01238-ADA

JURY TRIAL DEMANDED

**PLAINTIFF FINTIV, INC.'S SECOND SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS TO DEFENDANT APPLE INC.**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Plaintiff Fintiv, Inc. (“Plaintiff” or “Fintiv”) hereby requests that Defendant Apple Inc. (“Defendant” or “Apple”) serve Fintiv with its written responses to these requests for production and produce copies of the documents and things requested below, pursuant to the definitions and instructions set forth herein, at the law offices of Mann Tindel Thompson located at 913 Franklin Ave., Suite 201, Waco, TX 76701. These requests for documents and things are continuing in nature. If, after producing the requested documents and things, Apple obtains or becomes aware of any further responsive documents or things, Apple must produce to Fintiv such additional documents and things, as required by Federal Rule of Civil Procedure 26(e).

The following definitions and instructions shall apply to all requests herein:

DEFINITIONS

1. “Apple,” “Defendant,” “You” or “Your” means and includes Defendant Apple Inc., and all subsidiaries and affiliates thereof, all affiliates, related entities, parents, branches,

subsidiaries, divisions, predecessors, successors, and assigns, and all present and past officers, directors, employees, agents, consultants, attorneys, accountants, administrators, representatives, investigators, distributors, salespersons, sales representative, licensors, licensees, and all other persons or organizations or others acting or purporting to act on behalf, or under the control, of each of the foregoing, including all temporary employees and independent contractors.

2. “Fintiv” or “Plaintiff” means Plaintiff Fintiv, Inc., its officers, directors, employees, partners, corporate parent, subsidiaries or affiliates.

3. “The Action,” “this Action,” or “the Lawsuit” means the above-captioned lawsuit, *Fintiv, Inc., v. Apple Inc.*, C.A. No. 1:19-cv-01238-ADA, pending in the United States District Court for the Western District of Texas.

4. “Complaint” means Fintiv’s Second Amended Complaint filed on January 30, 2020.

5. “Patent-in-Suit” or “Asserted Patent” means U.S. Patent No. 8,843,125.

6. “Accused Technology” means any and all technology related to mobile wallet application software and hardware, mobile payment software and hardware, contactless payment software and hardware, NFC secure element implementation for wallet applications and virtual cards, communications between a mobile device and a trusted service manager related to a mobile wallet application and/or virtual cards, and Apple software and infrastructure that facilitate implementation of a mobile wallet application and/or virtual cards.

7. “Related Patent(s)” or “Related Patent Application(s)” means: (a) any patent or patent application in the chain of patents and patent applications that led to the issuance of the Patent-in-Suit; (b) any continuation, continuation-in-part, or division of any such application, whether or not such continuation, continuation-in-part, or division has been abandoned or is

currently pending; (c) any reexaminations, reissue applications, or applications by or through which the Patent-in-Suit claims priority; (d) and patents or applications that are referenced in or incorporated by reference into the Patent-in-Suit; or (e) any patents or applications claiming priority to (a), (b), or (c) above, including without limitation foreign counterparts.

8. “Accused Products” or “Accused Product” means and includes Apple Pay, Apple’s Wallet Application, Apple iPhone devices (including, at least, iPhone 6, 6 Plus, 6s, 6s Plus, SE, 7, 7 Plus, 8, 8 Plus, X, XR, XS, XS Max, 11, 11 Pro, and 11 Pro Max), Apple Watch devices (including, at least, Original, Series 1, Series 2, Series 3, Series 4, and Series 5), Apple iPad devices (including, at least, iPad Pro, iPad Air, iPad, and iPad mini models with Touch ID or Face ID), Apple Mac devices (including, at least, Mac devices with Touch ID), Apple’s related supporting infrastructure, and associated hardware and software.

9. “Wallet Cards” means and includes cards, passes, tickets, and coupons that can be added to Apple’s devices (iPhone devices, Watch devices, iPad devices, and Mac devices), including credit cards (*e.g.*, Visa card; Mastercard; Apple Card), debit cards, prepaid cards, store cards, boarding passes, movie tickets, coupons, rewards cards, and student ID cards.

10. “Software” means and includes firmware, source code, object code, or other application, program, procedure, instructions or algorithm for execution by a computer, processor, microcontroller, or integrated circuit of any kind.

11. “Source Code” means computer code, scripts, assembly, binaries, object code, source code listings and descriptions of source code, object code listings and descriptions of object code, Hardware Description Language (HDL) or Register Transfer Level (RTL) files that describe the hardware design of any ASIC or other chip, and Computer Aided Design (CAD) files that describe the hardware design of any component. Source Code further means human-readable form

of a computer program written in high level or assembly language and includes html files; xml files; source code listings; compiler and/or assembler output listings for such source code; source code listings for macros or “includes” (both executable and mapping) listings used in such source code; job control language files; and/or other files required to create an executable version of a program, including user interface components; panels; screen definitions and help text; and c-lists.

12. “Hardware Specifications” means the architecture, design, development, and implementation documentation, including component lists, bill of materials, hardware component design and architecture documentation, circuit designs and layouts, ASIC architectures, pin-outs, data sheets, and white papers.

13. As used herein, “product” and “products” are used in its broadest sense and means any product, device, apparatus, component, or other instrumentality.

14. “Date” means the exact day, month, and year if so ascertainable, or if not, the best approximation (including relationship to seasons and other events).

15. “Infringe” or any variant thereof, including but not limited to “infringing” and “infringement,” refers to any infringement under 35 U.S.C. § 271, whether direct, indirect, by equivalents, contributory, by inducement, literal, or by the doctrine of equivalents.

16. “Document” or “Documents” means the original and each non-identical copy of any written, printed, typed, recorded, computerized, electronic, taped, graphic, or other matter, in whatever form, whether final or draft, including but not limited to all materials and things that constitute “writings,” “recordings,” or “photographs” within the meaning of Rule 1001 of the Federal Rules of Evidence or “documents” within the meaning of Rule 34 of the Federal Rules of Civil Procedure. The terms “Document” or “Documents” include without limitation, electronically stored information, electronic mail, or e-mail, intra, or inter-office communications

(as defined herein), transcripts, judicial pleadings, petitions, motions, declarations, affidavits, electronic, magnetic, optical, or magneto-optical records, computer data, however stored, including data stored on or in diskettes or cartridges and disk drives, data cards, data processing files and other computer-readable records or programs, object code, source code, microcode, or anything similar to any of the foregoing, however denominated by the responding party. Any Document bearing any marks, including without limitation initials, stamped indicia, comments, highlighting, marginalia, or other notations not a part of the original text or reproduction thereof, is a separate Document that is also included in the request.

17. As used herein, “Thing(s)” refers to any physical specimen or tangible item, including research and development models, samples, prototypes and the like.

18. Identify, with respect to documents, means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s), and recipient(s).

19. “Concern,” “Concerning,” “Relate,” “Related” or “Relating” shall mean referring to, relating to, describing, evidencing, constituting, or otherwise discussing in any way the subject matter identified in a request.

20. “Persons” or “Person” means a natural person, corporation, company, partnership, proprietorship, joint venture, business, association, legal entity, or governmental entity.

21. “Communication(s)” means any form of oral or written interchange or attempted interchange, formal or informal, at any place or under any circumstances whatsoever whereby information of any nature is transmitted or transferred, including but not limited to any note, memorandum, letter, correspondence or other document, electronic mail message, telephone call,

and/or conversation, discussion, meeting and/or other record thereof, or a single person seeing or hearing any information by any means.

22. As used herein, “include” and “including” shall be construed to mean “without limitation,” so as to give the broadest possible meaning to requests and definitions containing those words.

23. The words “and” and “or” shall be construed conjunctively or disjunctively, whichever makes the request most inclusive.

24. As used herein, the singular of any word shall include the plural, and the plural shall include the singular.

25. As used herein, “any” and “all” shall each be construed to mean “each and every,” so as to acquire the broadest meaning possible.

26. The term “Regarding” as used herein shall be construed in the broadest possible sense, and mean without limitation and whether in whole or in part: referring to, constituting, bearing upon, commenting upon, reflecting, evidencing, pertaining to, describing, resulting from, depicting, consisting of, containing, comprising, embodying, identifying, stating, discussing, analyzing, studying, summarizing, dealing with, mentioning, relating to, or having any logical or factual connection whatsoever with the subject addressed, regardless whether the factual connection is favorable to or adverse to You.

27. All requests are for discovery purposes only and are not to be construed as limiting or reflecting Fintiv’s positions in this case.

INSTRUCTIONS

A. These Requests are to be read and interpreted in accordance with the Federal Rules of Civil Procedure, the Court’s Local Rules, and the Instructions and Definitions set forth herein.

B. You must produce all responsive documents within Your possession, custody, or control. If any document or thing requested herein was, but no longer is, in Your possession, custody, or control, state whether it has been lost, destroyed, or transferred, is missing, or otherwise has been disposed of, and for each instance, indicate the date and circumstances of the disposal.

C. If no documents or things are responsive to a particular Request, Apple shall state that no responsive documents or things exist.

D. If a Request calls for a document or thing that Apple declines to produce, in whole or in part, based on a claim of privilege or any other claim, provide a privileged document log pursuant to Federal Rule of Civil Procedure 26(b)(5)(A) that identifies for each document separately and specifies for each document at least the following:

1. the date;
2. the authors, creators, and sender(s) identified by position and entity with which they are employed or associated and, if any author or sender is an attorney, a statement so stating and, if any sender is a foreign patent agent, a statement so stating and a statement as to whether the laws of the agent's country grant privileged status to a patent agent's communications;
3. the recipient(s), including copy recipients, identified by position and entity with which they are employed or associated and, if any recipient is an attorney, a statement so stating and, if any recipient is a foreign patent agent, a statement so stating and a statement as to whether the laws of the agent's country grant privileged status to a patent agent's communications;
4. the general subject matter of the document or thing;

5. the portion(s) of the document as to which privilege is claimed; and the type of privilege asserted as well as a certification that all elements of the claimed privilege have been met and not waived.

E. All documents requested are to be produced in the same file or other organizational environment in which they are maintained. For example, a document that is part of a file, docket, or other grouping, should be physically produced together with all other documents from said file, docket or grouping, in the same order or manner of arrangement as the original. Alternatively, as to each document and thing produced in response hereto, Apple shall identify the Request in response to which the document or thing is being produced.

F. These Requests seek all responsive documents in their original language and, if such original language is not English, these Requests also seek all English-language translations that may exist for any such documents.

G. Apple shall keep and produce a record of the source of each document or thing produced. This shall include the name and location of the file where each document or thing was located and the name of the person, group or department having possession, custody or control of each document or thing.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 38:

All Documents referring to or mentioning the Asserted Patent, Related Patents, or Related Patent Applications.

REQUEST FOR PRODUCTION NO. 39:

All Documents referring to or mentioning Fintiv, its affiliates, related entities, and all other persons acting on its behalf.

REQUEST FOR PRODUCTION NO. 40:

All Documents referring to or mentioning SK C&C, its affiliates, related entities, and all other persons acting on its behalf.

REQUEST FOR PRODUCTION NO. 41:

All Documents referring to or mentioning Mozido Corfire – Korea, Ltd., its affiliates, related entities, and all other persons acting on its behalf.

REQUEST FOR PRODUCTION NO. 42:

All patents and patent applications assigned to Apple that are in the same or similar field as the Accused Technology.

REQUEST FOR PRODUCTION NO. 43:

All third-party and Apple internal market-related Documents showing Apple’s market share in the mobile wallet market in the United States, including, without limitation, industry analysis reports and/or market studies.

REQUEST FOR PRODUCTION NO. 44:

All Documents related to Apple’s attempts to distinguish the Accused Products over its competitors’ similar products.

REQUEST FOR PRODUCTION NO. 45:

All Documents and Things that Apple relies upon or will rely upon to analyze the amount of damages in this Action.

REQUEST FOR PRODUCTION NO. 46:

All Documents that discuss, refer to, or evidence the quality, value, usability, performance, appeal, or attractiveness of the Apple Pay service.

REQUEST FOR PRODUCTION NO. 47:

All Documents Related to analyses or summaries of customer feedback regarding the performance of each Accused Products as Relating to Apple Pay, and Apple's response to this feedback.

REQUEST FOR PRODUCTION NO. 48:

All Documents that discuss, refer to, or evidence the fee structures of Apple Pay, including, without limitation, documents related to the negotiations of such fee structures, and pricing competition in the same market space.

REQUEST FOR PRODUCTION NO. 49:

All Documents showing all revenues that Apple has generated from licensing the Accused Technology and all projected revenues that Apple will generate from licensing the Accused Technology.

REQUEST FOR PRODUCTION NO. 50:

All Documents, reports, surveys, and data Related to consumers' use of the Apple Pay service, including, without limitation, Documents reflecting cards made available for use in Apple's iPhone, Watch, iPad and Mac devices and Documents reflecting Apple Pay transactions.

REQUEST FOR PRODUCTION NO. 51:

Documents related to indemnification by or of Apple by or for a third party for use of and/or sale of each of the Accused Products as Relating to Apple Pay.

REQUEST FOR PRODUCTION NO. 52:

Provide three physical product samples that are representative of each of the following devices: the Apple iPhone devices that support Apple Pay, the Apple Watch devices that support

Apple Pay, the Apple iPad devices that support Apple Pay, and the Apple Mac devices that support Apple Pay.

REQUEST FOR PRODUCTION NO. 53:

All Communications between Apple and all other third parties Regarding this Action and the Asserted Patent.

REQUEST FOR PRODUCTION NO. 54:

All Documents Related to the general economic conditions affecting the mobile payment industry from 2012 to the present, including, without limitation, industry analysis reports and/or market studies.

REQUEST FOR PRODUCTION NO. 55:

All Documents furnished to, shown to, produced by, or received from any fact witness contacted, interviewed, or consulted by Apple, its counsel and its other agents Regarding this Action and the Asserted Patent.

REQUEST FOR PRODUCTION NO. 56:

All Documents and Things Related to Apple's defenses in this Action and its factual and legal bases of its denial of the assertions made in the Complaint.

REQUEST FOR PRODUCTION NO. 57:

All Documents that contain the names of any third-party Software vendors, manufacturers, or other third parties who have assisted Apple in creating and implementing Apple Pay.

REQUEST FOR PRODUCTION NO. 58:

All Documents Related to non-infringing alternatives to the Asserted Patent, including, without limitation, all Documents referring or Relating to any analysis or effort by Apple to develop and market a non-infringing alternative to any product practicing any claim of the Asserted

Patent.

REQUEST FOR PRODUCTION NO. 59:

All Documents that show the number of Apple's iPhone and Watch devices that (1) were preloaded with Apple's Wallet Application, (2) received Apple's Wallet Application through an operating system update, or (3) received Apple's Wallet's Application by some other means, from 2012 to the present.

REQUEST FOR PRODUCTION NO. 60:

All Documents that show the total number of Wallet Cards (defined above) that have been made available for use in Apple's devices (iPhones, Watches, iPads, and Macs) from 2012 to the present.

REQUEST FOR PRODUCTION NO. 61:

All Documents, including Hardware Specifications, and Source Code, sufficient to fully describe the functionality and operation of Apple's iPad and Mac devices as Relating to Apple Pay and related supporting infrastructure, including, without limitation, Source Code, related functional design and architecture documents.

REQUEST FOR PRODUCTION NO. 62:

All Documents identified or considered by Apple in its responses to Fintiv's Second Set of Interrogatories in this Action.

Dated: March 23, 2020

RESPECTFULLY SUBMITTED,

By: /s/ Andy Tindel

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**Attorneys for Plaintiff
FINTIV, INC.**

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing instrument was served or delivered electronically to Apple's counsel of record, on this 23rd day of March, 2020.

/s/ Andy Tindel _____
Andy Tindel

Exhibit 14

Public Version

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

FINTIV, INC.,

Plaintiff,

v.

APPLE INC.,

Defendant.

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Civil Action No.: 1:19-cv-01238-ADA

JURY TRIAL DEMANDED

**PLAINTIFF FINTIV, INC.’S THIRD SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS TO DEFENDANT APPLE INC.**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Plaintiff Fintiv, Inc. (“Plaintiff” or “Fintiv”) hereby requests that Defendant Apple Inc. (“Defendant” or “Apple”) serve Fintiv with its written responses to these requests for production and produce copies of the documents and things requested below, pursuant to the definitions and instructions set forth herein, at the law offices of Mann Tindel Thompson located at 913 Franklin Ave., Suite 201, Waco, TX 76701. These requests for documents and things are continuing in nature. If, after producing the requested documents and things, Apple obtains or becomes aware of any further responsive documents or things, Apple must produce to Fintiv such additional documents and things, as required by Federal Rule of Civil Procedure 26(e).

The following definitions and instructions shall apply to all requests herein:

DEFINITIONS

1. “Apple,” “Defendant,” “You” or “Your” means and includes Defendant Apple Inc., and all subsidiaries and affiliates thereof, all affiliates, related entities, parents, branches,

subsidiaries, divisions, predecessors, successors, and assigns, and all present and past officers, directors, employees, agents, consultants, attorneys, accountants, administrators, representatives, investigators, distributors, salespersons, sales representative, licensors, licensees, and all other persons or organizations or others acting or purporting to act on behalf, or under the control, of each of the foregoing, including all temporary employees and independent contractors.

2. “Fintiv” or “Plaintiff” means Plaintiff Fintiv, Inc., its officers, directors, employees, partners, corporate parent, subsidiaries or affiliates.

3. “The Action,” “this Action,” “the Lawsuit,” or “this Lawsuit” means the above-captioned lawsuit, *Fintiv, Inc., v. Apple Inc.*, C.A. No. 1:19-cv-01238-ADA, pending in the United States District Court for the Western District of Texas.

4. “Patent-in-Suit” or “Asserted Patent” means U.S. Patent No. 8,843,125.

5. “Related Patent(s)” or “Related Patent Application(s)” means: (a) any patent or patent application in the chain of patents and patent applications that led to the issuance of the Patent-in-Suit; (b) any continuation, continuation-in-part, or division of any such application, whether or not such continuation, continuation-in-part, or division has been abandoned or is currently pending; (c) any reexaminations, reissue applications, or applications by or through which the Patent-in-Suit claims priority; (d) and patents or applications that are referenced in or incorporated by reference into the Patent-in-Suit; or (e) any patents or applications claiming priority to (a), (b), or (c) above, including without limitation foreign counterparts.

6. “Accused Technology” means any and all technology related to mobile wallet application software and hardware, mobile payment software and hardware, contactless payment software and hardware, NFC secure element implementation for wallet applications and virtual cards, communications between a mobile device and a trusted service manager related to a mobile

wallet application and/or virtual cards, and Apple software and infrastructure that facilitate implementation of a mobile wallet application and/or virtual cards.

7. “Accused Products” or “Accused Product” means and includes the products identified in the Sealed Declaration of Jonathan K. Waldrop in Support of Plaintiff Fintiv, Inc.’s Motion for Leave to Amend Final Disclosure of Asserted Claims, Accused Instrumentalities, and Infringement Contentions (Dkt. 135 at Exs. 1-4)

8. “Related Products” means and includes any products, applications and/or software provided by Apple that use or are reasonably related to the Accused Products.

9. “Related Services” means any services related to the Accused Products provided by Apple or for which Apple receives any kind of compensation.

10. “Average revenue per user” or “ARPU” means the average revenue per user of each Accused Product, Related Product, and Related Service.

11. “Apple Card” means Apple Card as described at <https://www.apple.com/apple-card/>.

12. “Apple Cash” means Apple Cash as described at <https://support.apple.com/apple-cash>.

13. “Wallet Cards” means and includes cards, passes, tickets, and coupons that can be added to Apple’s devices (iPhone devices, Watch devices, iPad devices, and Mac devices) that support Apple Pay, including credit cards (*e.g.*, Visa card, Mastercard, Apple Card), debit cards, Apple Cash, prepaid cards, store cards, boarding passes, movie tickets, coupons, rewards cards, and student ID cards.

14. “SK C&C” means and includes SK C&C Co., Ltd, SK C&C USA, Inc., and any of their respective subsidiaries, affiliates, related entities, parents, branches, divisions, predecessors,

successors, and assigns, and all present and past officers, directors, employees, agents, partners, consultants, attorneys, accountants, administrators, representatives, investigators, distributors, salespersons, sales representatives, licensors, licensees, and all other persons or organizations or others acting or purporting to act on behalf, or under the control, of each of the foregoing, including all temporary employees and independent contractors.

15. “Jason Miller” or “Mr. Miller” means Jason Miller, who is, upon information and belief, currently employed at Apple as an Apple Pay and Wallet Product employee, and was previously employed at Apple as an Apple Pay Program Manager at Apple, and as a Senior Project Manager – Apple Pay prior to that. Immediately before he became an Apple employee in September 2015, Mr. Miller was employed at SK C&C as an m-Commerce Global Product & New Business Development Manager. For reference, a true and correct copy of Mr. Miller’s LinkedIn profile is attached hereto as **Exhibit 1**.

16. “David Parker” or “Mr. Parker” means David Parker, who is, upon information and belief, currently employed at Apple as a Senior Manager, Global Payment Platforms. For reference, a true and correct copy of Mr. Parker’s LinkedIn profile is attached hereto as **Exhibit 2**.

17. “Siraj Nazir” or “Mr. Nazir” means Siraj Nazir, who was, upon information and belief, formerly employed at Apple as a Senior Manager, Apple Pay – Global New Products and Business Development. For reference, a true and correct copy of Mr. Nazir’s LinkedIn profile is attached hereto as **Exhibit 3**.

18. “Richard Daniel Ewing” or “Mr. Ewing” means Dan Ewing, who is, upon information and belief, currently employed at Apple as a Director of Strategy and Planning for Apple Pay. For reference, a true and correct copy of Mr. Ewing’s LinkedIn profile is attached hereto as **Exhibit 4**.

19. As used herein, “product” and “products” are used in its broadest sense and means any product, device, apparatus, component, or other instrumentality.

20. As used herein, “service” and “services” are used in its broadest sense and means any service, offering, or program.

21. “Date” means the exact day, month, and year if so ascertainable, or if not, the best approximation (including relationship to seasons and other events).

22. “Document” or “Documents” means the original and each non-identical copy of any written, printed, typed, recorded, computerized, electronic, taped, graphic, or other matter, in whatever form, whether final or draft, including but not limited to all materials and things that constitute “writings,” “recordings,” or “photographs” within the meaning of Rule 1001 of the Federal Rules of Evidence or “documents” within the meaning of Rule 34 of the Federal Rules of Civil Procedure. The terms “Document” or “Documents” include without limitation, electronically stored information, electronic mail, or e-mail, intra, or inter-office communications (as defined herein), transcripts, judicial pleadings, petitions, motions, declarations, affidavits, electronic, magnetic, optical, or magneto-optical records, computer data, however stored, including data stored on or in diskettes or cartridges and disk drives, data cards, data processing files and other computer-readable records or programs, object code, source code, microcode, or anything similar to any of the foregoing, however denominated by the responding party. Any Document bearing any marks, including without limitation initials, stamped indicia, comments, highlighting, marginalia, or other notations not a part of the original text or reproduction thereof, is a separate Document that is also included in the request.

23. “Identify,” with respect to documents, means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s), and recipient(s).

24. “Concern,” “Concerning,” “Reflect,” “Reflected,” “Reflecting,” “Relate,” “Related” or “Relating” shall mean referring to, relating to, describing, evidencing, constituting, or otherwise discussing in any way the subject matter identified in a request.

25. “Communication(s)” means any form of oral or written interchange or attempted interchange, formal or informal, at any place or under any circumstances whatsoever whereby information of any nature is transmitted or transferred, including but not limited to any note, memorandum, letter, correspondence or other document, electronic mail message, telephone call, and/or conversation, discussion, meeting and/or other record thereof, or a single person seeing or hearing any information by any means.

26. As used herein, “include” and “including” shall be construed to mean “without limitation,” so as to give the broadest possible meaning to requests and definitions containing those words.

27. The words “and” and “or” shall be construed conjunctively or disjunctively, whichever makes the request most inclusive.

28. As used herein, the singular of any word shall include the plural, and the plural shall include the singular.

29. As used herein, “any” and “all” shall each be construed to mean “each and every,” so as to acquire the broadest meaning possible.

30. The term “Regarding” as used herein shall be construed in the broadest possible sense, and mean without limitation and whether in whole or in part: referring to, constituting,

bearing upon, commenting upon, reflecting, evidencing, pertaining to, describing, resulting from, depicting, consisting of, containing, comprising, embodying, identifying, stating, discussing, analyzing, studying, summarizing, dealing with, mentioning, relating to, or having any logical or factual connection whatsoever with the subject addressed, regardless whether the factual connection is favorable to or adverse to You.

31. All requests are for discovery purposes only and are not to be construed as limiting or reflecting Fintiv's positions in this case.

INSTRUCTIONS

A. These Requests are to be read and interpreted in accordance with the Federal Rules of Civil Procedure, the Court's Local Rules, and the Instructions and Definitions set forth herein.

B. You must produce all responsive documents within Your possession, custody, or control. If any document or thing requested herein was, but no longer is, in Your possession, custody, or control, state whether it has been lost, destroyed, or transferred, is missing, or otherwise has been disposed of, and for each instance, indicate the date and circumstances of the disposal.

C. If no documents or things are responsive to a particular Request, Apple shall state that no responsive documents or things exist.

D. If a Request calls for a document or thing that Apple declines to produce, in whole or in part, based on a claim of privilege or any other claim, provide a privileged document log pursuant to Federal Rule of Civil Procedure 26(b)(5)(A) that identifies for each document separately and specifies for each document at least the following:

1. the date;
2. the authors, creators, and sender(s) identified by position and entity with which they are employed or associated and, if any author or sender is an

attorney, a statement so stating and, if any sender is a foreign patent agent, a statement so stating and a statement as to whether the laws of the agent's country grant privileged status to a patent agent's communications;

3. the recipient(s), including copy recipients, identified by position and entity with which they are employed or associated and, if any recipient is an attorney, a statement so stating and, if any recipient is a foreign patent agent, a statement so stating and a statement as to whether the laws of the agent's country grant privileged status to a patent agent's communications;
4. the general subject matter of the document or thing;
5. the portion(s) of the document as to which privilege is claimed; and the type of privilege asserted as well as a certification that all elements of the claimed privilege have been met and not waived.

E. All documents requested are to be produced in the same file or other organizational environment in which they are maintained. For example, a document that is part of a file, docket, or other grouping, should be physically produced together with all other documents from said file, docket or grouping, in the same order or manner of arrangement as the original. Alternatively, as to each document and thing produced in response hereto, Apple shall identify the Request in response to which the document or thing is being produced.

F. These Requests seek all responsive documents in their original language and, if such original language is not English, these Requests also seek all English-language translations that may exist for any such documents.

G. Apple shall keep and produce a record of the source of each document or thing produced. This shall include the name and location of the file where each document or thing was

located and the name of the person, group or department having possession, custody or control of each document or thing.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 63:

Separately, for each Accused Product, Related Product, and Related Service, all Documents reflecting your actual or projected worldwide monthly (or quarterly if monthly does not exist, or annual if neither monthly nor quarterly exist) sales volume, revenue, gross profits, net profits, and costs (including costs of sales) along with the total number active and inactive Apple Pay users worldwide generated from six years before the filing of this Action through the expiration of the Patent-in-Suit.

REQUEST FOR PRODUCTION NO. 64:

All Documents reflecting Your communications with Fintiv and its predecessors, including but not limited to Mozido, Inc. and SK C&C, prior to December 21, 2018, including for example those through Messrs. Parker, Nazir, and Ewing regarding the Patent-in-Suit, Related Patents, Related Patent Applications, Accused Technology, and/or Wallet Cards, and Your knowledge of SK C&C's intellectual property (*e.g.*, the Patent-in-Suit), including but not limited to, when you first communicated with SK C&C's former employee Jason Miller, the circumstances surrounding Your hiring of Mr. Miller from SK C&C, why You decided to hire Mr. Miller, what Mr. Miller has worked on and continues to work on during his employment at Apple, and whether Mr. Miller had knowledge of SK C&C's intellectual property, including the Patent-in Suit.

REQUEST FOR PRODUCTION NO. 65:

All Documents (other than APPLE-FINTIV_00034416 and APPLE-FINTIV_00059933-APPLEFINTIV_00060072) reflecting the reasons why You continue to offer Apple Pay, including

but not limited to, how offering Apple Pay affects customer engagement, customer retention, customer loyalty, customer satisfaction, customer usage, average revenue per user (ARPU), competitiveness in the market place, retention of goodwill, brand loyalty, increased sales and use of the Accused Products, Related Products, and Related Services, increased usage of Your services (including for example, Apple Card, including the reasons You provide cash back on purchases made using Apple Card on Apple Pay and the number of users who apply for the Apple Card through advertisements on Apple Wallet), positive projections and forecasts, business case justification, and benefits received through the use of Apple Pay for Apple Music, Apple News+, App Store, Books, iCloud, and iTunes Store as listed on Your webpage at <https://www.apple.com/apple-pay/where-to-use/>, apps and websites (e.g., Apple Store, Starbucks, Uber, and Lyft) listed on Your webpage at <https://apps.apple.com/story/id1279036881>, and Your relationships with the third parties listed on Your webpage at <https://www.apple.com/apple-pay/where-to-use/>, and how data obtained from Apple Pay users such as location and transactional data results in increased sales and usage of Your products and services.

REQUEST FOR PRODUCTION NO. 66:

All Documents reflecting Your decision to offer Apple Pay, including Your decision to begin offering Apple Pay and Your decision to continue to offer Apple Pay.

REQUEST FOR PRODUCTION NO. 67:

All Documents reflecting Your need to offer Apple Pay in order to remain competitive in the market place.

REQUEST FOR PRODUCTION NO. 68:

All Documents reflecting the number of Apple Pay users who apply for the Apple Card through Apple's Wallet Application, including but not limited to data reflecting the percentage of Apple Pay users who apply for the Apple Card through Apple's Wallet Application.

REQUEST FOR PRODUCTION NO. 69:

All Documents that discuss, refer to, or evidence the fees You receive for Apple Cash transactions.

REQUEST FOR PRODUCTION NO. 70:

All Documents that discuss, refer to, or evidence the fees You receive for Apple Card transactions.

Dated: July 24, 2020

RESPECTFULLY SUBMITTED,

By: /s/Andy Tindel

J. Mark Mann (Texas Bar No. 12926150)
mark@themannfirm.com
G. Blake Thompson (Texas Bar No. 24042033)
blake@themannfirm.com
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Henderson, Texas 75652
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Waco, Texas 76701
Telephone: (903) 657-8540
Facsimile: (903) 657-6003

Andy Tindel (Texas Bar No. 20054500)
atindel@andytindel.com
MANN | TINDEL | THOMPSON
112 E. Line Street, Suite 304
Tyler, Texas 75702
Telephone: (903) 596-0900
Facsimile: (903) 596-0909

Craig D. Cherry (Texas Bar No. 24012419)
ccherry@haleyolson.com
HALEY & OLSON, P.C.
100 N. Ritchie Road, Suite 200
Waco, Texas 76712
Telephone: (254) 776-3336
Facsimile: (254) 776-6823

Jonathan K. Waldrop (CA Bar No. 297903)
(Admitted in this District)
jwaldrop@kasowitz.com
Darcy L. Jones (CA Bar No. 309474)
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(Admitted in this District)
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Trevor J. Welch (NY Bar No. 2941722)
(Admitted *pro hac vice*)
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Telephone: (212) 506-1767
Facsimile: (212) 835-5067

Attorneys for Plaintiff
FINTIV, INC.

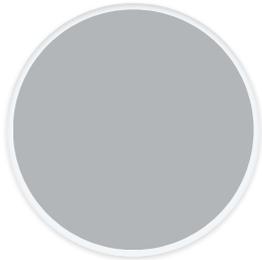
CERTIFICATE OF SERVICE

A true and correct copy of the foregoing instrument was served or delivered electronically via email to Apple's counsel of record, on this 24th day of July, 2020.

/s/ Andy Tindel

Andy Tindel

EXHIBIT 1



Connect

Message

More...

Jason Miller ^{3rd}

Apple Pay & Wallet Product at Apple
San Francisco Bay Area 500+ connections

Contact info

-  Apple
-  University of California San...

Experience



Apple
4 yrs 11 mos

- **Apple Pay & Wallet Product**
Feb 2020 – Present 6 mos
Cupertino, California
- **Apple Pay Program Manager**
Feb 2017 – Feb 2020 3 yrs 1 mo
Cupertino, California
- **Sr. Project Manager - Apple Pay**
Sep 2015 – Feb 2017 1 yr 6 mos
Cupertino, CA



**m-Commerce Global Product & New Business
Development Manager**
SK C&C

Nov 2012 – Sep 2015 2 yrs 11 mos
Seongnam, Gyeonggi-do, Korea

- In charge of product management, new business expansion, and account management for SK C&C Mobile Commerce Division focusing primarily in the Asian and Oceania markets.

- Develop and manage numerous global accounts/projects...[see more](#)

Project Management Consultant

ROOKIE Sports

Oct 2011 – Oct 2012 1 yr 1 mo
Seongbuk-gu, Seoul, Korea

- Managed contract between American suppliers and a leading Korean Event Tracking company orchestrating delivery of key products and services
- Facilitated business growth through improved logistics,

Market Research Analyst

Hewlett-Packard

May 2011 – Oct 2011 6 mos
Gangnam-gu, Seoul, Korea

- In an effort to increase sales and distribution of its cut-size plain office paper, HP Media Division, headquartered in San Diego, CA hired me to conduct research and help develop strategies and plans for the future growth of their portfolio...[see more](#)

Program Management

Seoul Metropolitan Office of Education

Jul 2008 – May 2009 11 mos
Dongdaemun-gu, Seoul, Korea

Developed and implemented curriculum for the Seoul Metropolitan Office of Education. Also organized several ESL teaching seminars aimed at improving effective teaching techniques for educating students of ESL.

Education



University of California San Diego

Master's degree International Business, Economics and Management
2010 – 2012

Activities and Societies: MANNAM Korean Student Organization Member, Pacific and International Affairs Student Organization Member, Served as liaison to the DPRK delegates Economic Tour in the Spring of 2011

Quantitative Analysis Certificate Recipient in 2012

Yonsei University

Associate's degree Korean Language and Literature
2007 – 2008



Sookmyung University

Korean Language and Literature
2006 – 2007

[Show 2 more education](#)

Licenses & Certifications



Quantitative Analysis

University of California-San Diego
Issued Jun 2012No Expiration Date

Skills & Endorsements

Research¹⁵



[Endorsed by 2 of Jason's colleagues at SK holdings C&C](#)

Market Research¹⁴



[Endorsed by 3 of Jason's colleagues at SK holdings C&C](#)

International Relations¹²



[Endorsed by Kurtis Nakamura, who is highly skilled at this](#)

[Show more](#)

Recommendations

[Received \(1\)](#)

[Given \(0\)](#)



Luis Daniel

Alegria

Director of Digital Product at CVC CORP (We are hiring)

I had the chance to work with Jason directly in the preparation for the launch of Apple Pay in Brazil! Jason was a key player in making our integration of Apple Pay a success. His commitment to participate in each step of the process was 100% even during weekends and evenings. Working with restless people li... [See more](#)

April 7, 2018, Luis Daniel worked with Jason but at different companies

Accomplishments

9 Courses

Advanced Korean Advanced Regression Analysis Business and Governance in the Global Economy Cost Benefit Analysis Cyber Security Green Technology Korean Economy Quantitative Methods Statistical Decision Making

2 Languages

English Korean

2 Projects

CASE: A Decisive Response to Destructive Tariffs The Effect of Joining AFTA on Cambodia's Trade with ASEAN

Interests



International Business (43806)
120,204 members



Verizon
1,123,779 followers



UC San Diego
296,215 followers



TomTom
118,277 followers



SK holdings C&C
7,820 followers



UC San Diego's School of Global P...
2,192 members

[See all](#)

EXHIBIT 2



[Connect](#)
[Message](#)
[More...](#)

David Parker ^{3rd}
 Global Payments Professional
 San Francisco Bay Area 500+ connections
[Contact info](#)

-  Apple Inc.
-  Princeton University

Experience


Senior Manager, Global Payment Platforms
 Apple Inc.
 Jun 2011 – Present 9 yrs 2 mos


Senior Analyst
 Lazard Capital Markets
 Jul 2009 – Jun 2011 2 yrs


Vice President
 Merrill Lynch Equity Research
 Apr 2000 – Mar 2009 9 yrs


Research Associate
 Robertson Stephens
 Jun 1998 – Apr 2001 1 yr 11 mos

Education



Princeton University



The Wharton School

Master of Business Administration (M.B.A.)

Interests



The Wharton School

320,820 followers



Princeton University

183,334 followers



Apple

11,650,703 followers



BayPay Forum - Payment Innovati...

4,054 members

EXHIBIT 3



[Connect](#)
[Message](#)
[More...](#)

Siraj Nazir ^{3rd}

TPM Leadership, Digital Transformation @Google Cloud at Google | ex-Apple

San Francisco Bay Area 500+ connections

[Contact info](#)

Google
 PSG College of Technology

About

* Digital Payments, FinTech, Digital Identity, IoT, Blockchain, Health Solutions

* Roles:... [see more](#)

Activity

1,520 followers

[See all](#)



Thanks Drew Meyers

Siraj replied to a comment



Couldn't have agreed more. Chain of command cultivates politics and...

Siraj commented



Thanks Julien. Hope you are doing great as well.

Siraj replied to a comment



Thanks Olivier!

Siraj replied to a comment

Experience



TPM Leadership, Digital Transformation @Google Cloud

Google Full-time
Jul 2020 – Present 1 mo
San Francisco Bay Area



Director, Visa Acceptance Cloud (Next Billion Sellers) Visa

Jul 2018 – Jul 2020 2 yrs 1 mo
San Francisco Bay Area

Recruited by VP and SVP, Digital Seller Products to lead the incubation, design, development and launch of Visa's Next Generation Acceptance Cloud platform to instantly empower the Next Billion Sellers with low cost and innovative pay...[see more](#)



Siraj Nazir -
Visa...



Selling is
simple with...



Senior Advisor, Founding Member, Head of Digital Solutions (Series A - a16z, Verily) Citizen

Citizen
Jan 2018 – Jun 2020 2 yrs 6 mos
Series A - a16z, Verily

Series A - a16z, Verily HealthTech Startup

- * Senior Advisor, Founding Member
- * Products - Building innovative and frictionless Identity and payment solutions for patients to remotely identify, acc...[see more](#)



Consumer
Health Tech...



Senior Manager, Apple Pay - Global New Products and Business Development

Apple Full-time
Jul 2016 – Jan 2018 1 yr 7 mos
Cupertino

- * Apple Pay New Product Development (Digital Identity, Instant Issuance, other Special Projects)



IDEMIA

6 yrs 10 mos

- **Director, Products and Business Development - Digital Payments and IoT Solutions (Americas)**
Apr 2012 – Jul 2016 4 yrs 4 mos
San Francisco Bay Area, Greater Boston Area

[Previously known as Oberthur Technologies]

*Business Development, Product Management, Program Management, Strategic Partnerships, GTM and Consult; ...[see more](#)

- **Senior Program Manager - Mobile Financial Services (MEA)**
Oct 2009 – Apr 2012 2 yrs 7 mos
Dubai, UAE

[Previously known as Oberthur Technologies]

* Drove the Business development, Product Management, Program Management and Consultancy for Oberthur's ...[see more](#)

[Show 3 more experiences](#) ▾

Education



PSG College of Technology

Bachelor of Engineering Computer Science
1998 – 2002

Skills & Endorsements

Mobile Devices 48



Endorsed by [Arnaud Danree and 4 others](#) who are highly skilled at this

VISA Endorsed by 4 of Siraj's colleagues at Visa

Mobile Payments 33



Endorsed by [Charl Botes and 2 others](#) who are highly skilled at this

VISA Endorsed by 4 of Siraj's colleagues at Visa

Product Management 34



Endorsed by [Anil Sethi and 1 other](#) who is highly skilled at this

VISA Endorsed by 6 of Siraj's colleagues at Visa

Show more v

Recommendations

Received (4)

Given (8)



Mohan Randhava
Senior Software Engineer

April 23, 2019,
Mohan worked with Siraj in different groups

When Siraj left Apple to dive into the risky world of startups, it was a rare occasion for me to feel a real sense of loss. From the first day we met, working as colleagues on a very important cross-team initiative at Apple, I was drawn to Siraj's ebullience, enthusiasm, and intelligence. The core of our fruitful collaboration, ... [See more](#)



Kevin Atwal
International Payments & Relationship Management

April 18, 2019, Siraj worked with Kevin in the same group

Siraj is one of the most talented product professionals I've ever met. I worked very closely with Siraj for nearly 2 years at Apple Pay; he took extraordinary initiative with regard to exploring the product roadmap including ideation, evangelization and execution. Whilst he originally worked with me for BizDev for int'l ... [See more](#)

Show more v

Accomplishments

5 Honors & Awards v

- Player of the Year Award (2016) Key Game Changing Deal
- Award in Digital Payments (2015) Best Mobile Money Innovation (GSMA Global Mobile Awards 2012) Best Business Development - NFC and Mobile Financial Services Award (RMEA) 2011 Best Mobile Money Service for the Unbanked (GSMA Global Mobile Awards 2010)

Interests



Microsoft



LinkedIn

11,870,381 followers

12,350,979 followers



Mark Cuban
President
6,186,635 followers



American Express
1,239,299 followers



Oracle Internet of Things (IoT)
591 members



Motorola Mobility (a Lenovo Com...)
427,233 followers

[See all](#)

EXHIBIT 4



Connect

Message

More...

Dan E. 3rd

Apple Pay - Strategy & Planning

San Francisco Bay Area 500+ connections

[Contact info](#)

Apple



The Wharton School - Universi...

About

Specialties: Emerging payments (mobile payments, online commerce, prepaid cards, and cross-border remittances)

Great China and East Asia - Financial services and payments

Merger management - PMO management, integration, and value capture processes

Experience



Apple Pay - Strategy & Planning

Apple

Dec 2014 – Present 5 yrs 8 mos

Cupertino, CA



Board of Directors Member

PayPal Giving Fund

Aug 2011 – Dec 2014 3 yrs 5 mos

San Jose, CA

PayPal Giving Fund (formerly MissionFish) helps non-profits raise funds through eBay and PayPal and provides a safe and easy way for their customers to support their favorite causes. PPGF has raised over \$375 MM for nonprofits since 2003.



Senior Expert (Associate Principal)

McKinsey & Company

Oct 2004 – Nov 2014 10 yrs 2 mos
San Francisco, CA

Financial Services: Serves a wide range of U.S. and Asian banks, payment players, and private equity companies on growth strategy, emerging payments and organizational design topics

[...see more](#)



Summer Associate

Bear Stearns

May 2003 – Aug 2003 4 mos
New York, NY

Financial Services: Assisted deal team with corporate diligence, valuation, internal screening, and management presentations



Assistant Director - Chinese Studies

The Nixon Center

Dec 2001 – Dec 2002 1 yr 1 mo
Washington, DC

Program Management: Co-led the China Studies research and outreach program with focus on U.S.-China economic and foreign policy agenda

[...see more](#)

[Show 1 more experience](#)

Education



The Wharton School - University of Pennsylvania

MBA Finance
2002 – 2004



The Wharton School

MBA Finance
2002 – 2004



School of Advanced International Studies/ Hopkins Nanjing Center

MACHinese Studies & International Economics
1998 – 2000

Show 3 more education 

Skills & Endorsements

Strategy²⁸



Endorsed by Pete Donat and 9 others who are highly skilled at this



Endorsed by 9 of Dan's colleagues at McKinsey & Company

Mergers & Acquisitions¹⁵



Endorsed by Pete Donat, who is highly skilled at this



Endorsed by 2 of Dan's colleagues at McKinsey & Company

Emerging Markets¹⁴

Steve Pockross and 13 connections have given endorsements for this skill

Show more 

Accomplishments

8 Publications

The 2013 McKinsey Mobile Payments Consumer Survey The Evolving Mobile Payments Consumer: Strategic Insights from Around the Globe Online Merchant Acquiring: Innovating Beyond PaymentsThe Romance of the Three Kingdoms: Mobile Payments in China Building a Successful Enterprise Payments Organization China UnionPay: Stepping onto the Global Stage Mobile Money for the Unbanked: Unlocking the Potential in Emerging Markets The MPOS Strategy: Shifting the Balance of Power

2 Languages

English Mandarin Chinese

Interests



CGAP's Branchless Banking and D...
13,923 members



The Wharton School
320,824 followers



Beijing Language and Culture Uni...



Apple

(4) Dan E. | LinkedIn



33,232 followers

11,650,727 followers



The Johns Hopkins University
203,029 followers



McKinsey & Company
3,418,273 followers

Exhibit 15
Filed Under Seal

Exhibit 16
Filed Under Seal

Exhibit 17
Filed Under Seal

Exhibit 18
Filed Under Seal

Exhibit 19
Filed Under Seal

PUBLIC VERSION

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

FINTIV, INC.,

Plaintiff,

v.

APPLE INC.,

Defendant.

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Civil Action No.: 1:21-cv-00896-ADA

JURY TRIAL DEMANDED

DECLARATION OF GEORGE EUBANK

I, George Eubank, declare as follows:

1. My name is George Eubank. I am over twenty-one (21) years of age and fully competent to make this declaration. The facts contained herein are within my personal knowledge and are all true and correct.

2. I was employed at SK C&C USA d/b/a CorFire (“CorFire”) as Vice President of Channel Sales from April 2011 through May 2012. My responsibilities included providing strategic direction to add new partners and clients to CorFire’s mobile wallet application products and services.

3. CorFire was a wholly-owned subsidiary of SK C&C, a large multinational conglomerate out of South Korea. CorFire was a mobile commerce company and developed mobile wallet technology products and services. Specifically, CorFire had mobile wallet products and services, including CorPay, CorTSM, and CorMarketing. CorPay was CorFire’s mobile wallet. CorTSM provided the ability to provision credit card credentials to a secure element chip on a phone. CorMarketing was a way to push offers and marketing messages into the mobile wallet.

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4. One of CorFire's major customers I dealt with was InComm Payments, Inc. based in Atlanta, Georgia. InComm delivered enhanced end-to-end payment platforms and emerging financial technology solutions that help businesses grow across a wide range of industries including mobile payments, retail, healthcare, tolling & transit, incentives, and financial services. CorFire teamed up with InComm on a Merchant Partner Program.

5. On behalf of CorFire, I was in charge of the CorFire-InComm Merchant Partner Program, which included an initiative involving Apple Inc. ("Apple") in 2012. As part of this Merchant Partner Program, CorFire was seeking merchant partners to launch a "Mobile Merchant Wallet" in the United States. This promotion was only being extended to a limited list of "Tier One" merchants, including Apple. The first "Tier One" merchants to sign up would receive substantial incentives to deliver this "Proof of Concept" wallet to their shoppers. I have attached as **Exhibit A** a true and correct copy of a document [REDACTED]

6. On or about January 31, 2012, I attended a meeting with Apple employees at Apple's Cupertino headquarters located at 1 Infinite Loop to discuss the CorFire-InComm Partner Program and CorFire's proposed products and services, including CorPay. Also present at this meeting on behalf of CorFire-InComm were: (1) [REDACTED] CorFire's Senior Vice President, Europe and Merchant Account; (2) [REDACTED] CorFire's Chief Marketing Officer; and (3) [REDACTED] InComm's Vice President, General Manager Wireless Services and Mobile Commerce. During this January 2012 meeting, we shared CorFire's confidential and proprietary information related to the design and processes of CorFire's mobile wallet technology. Although I no longer have a copy of it, prior to sharing CorFire's confidential and proprietary information, the parties executed a non-disclosure agreement as it was CorFire's general and customary practice

PUBLIC VERSION

to do so. The meeting lasted approximately 1 hour. I have attached as **Exhibit B** a true and correct copy of my expense report which I submitted for reimbursement for this meeting with Apple.

7. During the January 2012 meeting, [REDACTED] I made a presentation on CorFire's products and services including CorPay and its secure element chip and widget technologies for mobile wallets. Although I no longer have a copy of this presentation, I have attached as **Exhibit C** a true and correct copy of a presentation substantially similar to what we presented to Apple during the January 2012 meeting.

8. I understand that [REDACTED] is currently the Director of Apple Pay & Wallet Product Management.

9. After the January 2012 meeting, Apple did not follow up with CorFire or InComm.

10. I am familiar with Apple Pay. It is apparent that Apple has used and incorporated CorFire's confidential and proprietary information into Apple Pay and Apple devices, including CorFire's teachings regarding secure element and widget technology. For example, both CorFire's mobile wallet products and services and Apple Pay use the following, all of which were discussed in the January 2012 presentation:

- a. A mobile wallet application;
- b. A secure element;
- c. Ability to store payment card information/credentials on the secure element chip;
- d. Widgets that represent a physical card and have a user interface; and
- e. A trusted service manager.

11. I understand that the above-captioned matter is set for trial in Austin, Texas, starting June 21, 2022, and I am willing and available to testify at trial as early as June 23, 2022.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 2nd day of June, 2022, in Ponte Vedra Beach, Florida.

George Eubank
George Eubank (Jun 6, 2022 08:09 EDT)

George Eubank, Declarant

Exhibit A
Filed Under Seal

Exhibit B
Filed Under Seal

Exhibit C
Filed Under Seal