IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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|---|---|---|
| RALLY AG LLC, | ) | |
| | ) | |
| Plaintiff, | ) | |
| | ) | C.A. No. _____ |
| v. | ) | |
| | ) | **DEMAND FOR JURY TRIAL** |
| APPLE, INC., | ) | |
| | ) | |
| Defendant. | ) | |

**COMPLAINT FOR PATENT INFRINGEMENT**
**AND DEMAND FOR JURY TRIAL**

Plaintiff Rally AG LLC ("Rally" or "Plaintiff"), for its Complaint against Defendant Apple, Inc. ("Apple" or "Defendant"), alleges as follows:

## NATURE AND BASIS OF THE ACTION

1. This is an action for patent infringement arising under the laws of the United States, 35 U.S.C. §§ 1 *et seq.* and results from Apple's unauthorized use of Plaintiff's patented innovations. Plaintiff seeks monetary damages, injunctive relief, and recovery of its reasonable attorneys' fees incurred in connection with this action.

2. Plaintiff is the owner of U.S. Patent No. 11,361,107, titled "Privacy Friendly Communications by Operation of Cloaked/Decloaked Email" ("the '107 Patent" or "the Asserted Patent"). As detailed herein, Apple infringes the Asserted Patent.

## PARTIES

3. Plaintiff is a Washington corporation with its principal place of business located 2205 Carillon Point, Kirkland, Washington, 98003.

4. On information and belief, Defendant Apple is a Delaware corporation with its principal place of business located at One Apple Park Way, Cupertino, California 95104.

5. On information and believe, Defendant has a regular and established place of business at 125 Christiana Mall, Newark, DE 19702. Defendant may be served with process through its registered agent for service of process in Delaware, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

6. Defendant directly and/or indirectly makes, imports, distributes, markets, sells and/or offers to sell throughout the United States, including in this judicial district, products and/or services (the "Accused Products") that infringe one or more of the claims of the '107 Patent as described below.

## JURISDICTION AND VENUE

7. This is a civil action for patent infringement arising under the Patent Laws of the United States as set forth in 35 U.S.C. §§ 1, *et seq*.

8. This Court has federal subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over Defendant, as a Delaware corporation.

10. Defendant is registered with the Delaware Secretary of State to conduct business within Delaware, and has a regular and established place of business at 125 Christiana Mall, Newark, DE 19702.

11. Defendant directly and/or indirectly makes, imports, distributes, markets, sells and/or offers to sell throughout the United States, including in this judicial district, products and/or services ("the Accused Products") that infringe one or more claims of the '107 Patent as described below. The Accused Products include all Apple devices, including iPhones and iPads, that have cloaking and decloaking capabilities as described below.

12. Defendant operates the website https://www.Apple.com/ and provides a mobile application in order to provide privacy measures to its customers and users, including but not limited to its "Hide-My-Email" feature.

13. Defendant has operated services offered to users in the State of Delaware.

14. Defendant has transacted and solicited business and actively advertised to residents within the State of Delaware.

15. This Court also has personal jurisdiction over Defendant because, in addition to Defendant's own online website and advertising within this judicial district, Defendant also has made its products and services available specifically within the District of Delaware and actively targets and advertises to residents of the District of Delaware.

16. Accordingly, specific and general personal jurisdiction exists over Defendant. This Court's personal jurisdiction over Defendant comports with the constitutional standards of fair play and substantial justice and arises directly from the Defendant's purposeful minimum contacts with the State of Delaware and its infringement of the '107 Patent.

17. Venue is proper in this Court under 28 U.S.C. §§ 1391(b)-(c) and 28 U.S.C. § 1400(b) because Defendant has committed or induced acts of infringement in this District. In addition, Defendant maintains a regular and established place of business in this District.

18. In addition to the foregoing, venue is proper at least because Defendant, in conjunction with its employees, has committed acts of direct and/or indirect infringement of the '107 Patent in the District of Delaware at least by practicing the claimed inventions in this Judicial District or contributing to or inducing others to practice the claimed inventions in this Judicial District.

19. Defendant also has committed acts of direct infringement in this District through other Apple employees who have practiced and continue to practice steps of using the claimed system and computer readable medium in this District for development, testing, and/or demonstration purposes.

20. On information and belief, discovery will confirm that Defendant has further directly performed one or more acts using the accused system and computer readable medium in this District.

21. Defendant's products and services, and electronic connections and communications ("the Apple Platform") are accused of infringing the '107 Patent. For example, the technologies underlying the Apple Platform implement the integrated processes by which Apple cloaks and decloaks email communications with customers. On information and belief, discovery will confirm that Defendant has further directly performed one or more steps of using the accused computer readable medium in this District.

## DEFENDANT'S INFRINGING METHODS, SYSTEMS, AND PRODUCTS

22. Through the Apple Platform, Defendant makes, uses, sells, offers for sale, coordinates, and/or controls, among other things, its "Hide-My-Email" feature.

23. For example, on information and belief, Defendant makes, uses, sells and offers for sale to its users and customers the Apple Platform, including but not limited to the "Hide-My-Email" feature ("the Accused Products").

24. On information and belief, the Accused Products, including the "Hide-My-Email" feature were introduced with Defendant's iOS 15 platform in or around September 2021. According to Defendant, the "Hide-My-Email" product "lets you create unique, random email

addresses that forward to your personal inbox so you can send and receive email without having to share your real email address."

25. Further, on information and belief, according to Defendant's own website, with the Accused Products "[i]f you create an account with an app or visit a website that supports Sign in with Apple, you can choose to share your email address, if you're familiar with the app or visit a website, or hide your email address, if you'd prefer more privacy."

26. Further, on information and belief, according to Defendant's own website, "If you choose the Hide My Email option, only the app or website you created the account with can use this random email address to communicate with you."

27. Further, on information and belief, Defendant's own website provides that, "[w]ith an iCloud+ subscription, you can generate unique, random addresses on your device with iOS 15, iPadOS 15, or macOS Monterey or later in any email field in Safari. You can also generate email addresses on-demand in the Settings app in iOS or iPadOS, in System Settings or System Preferences in macOS, in the Mail app, or on iCloud.com. in iOS 16 or iPadOS 16 or later, you can also keep your email address private in third-party apps."

## DEVELOPMENT OF THE PATENTED TECHNOLOGIES

28. The innovations in the '107 Patent began with inventor Brian Roundtree.

29. In or around early 2010, Mr. Roundtree founded autoGraph Inc. ("AutoGraph" or "the Company"). Its initial core business mission was to solve privacy issues around advertising while improving advertising performance. AutoGraph's first product focused on allowing users to express their personal preferences without Personally Identifiable Information (PII).

30. AutoGraph provided advertisers access to people's personal preferences so businesses could better serve their customers. As it deployed the service, AutoGraph found that its customers would buy its services because it improved advertisement performance, but in their internal systems they wanted to link to and access users' PII. This exposed a dilemma that went against AutoGraph's core mission. This led to AutoGraph focusing on how to allow users to exercise better control over how their personal preferences and PII are accessed and used by others.

31. In 2013, AutoGraph began focusing on solving the problem of how users could allow various entities to use their PII without having direct access to it. AutoGraph then developed a series of products (and obtained related patents) around the general problem of user-controlled access to personal data and PII without losing control of the data itself. AutoGraph referred to its inventive products and processes as "Data Cloaking."

32. The following links are exemplary of AutoGraph's use of its cloaking and decloaking technology:

YouTube Explainer Video published July 2019: https://youtu.be/BdTLAqz7mC4

autoGraph website in WebArchive:

https://web.archive.org/web/20200313194412/https://www.autograph.me/

33. Using Data Cloaking, users could provide single-use tokens that would allow various entities, like businesses, to use their PII without direct access to their PII. Businesses could submit these user tokens and answer questions or perform tasks like sending email, shipping a package, or making a voice call, without having their real email address, knowing their real home address, or knowing their real phone number.

34. AutoGraph continued developing supporting technologies, and later launched its email cloaking technology and continued to develop further improvements, which

was referred to as "Email Cloaking." Email Cloaking is directed to inhibiting the ability of businesses and fraudsters to use people's email addresses to link them across the internet and track their activities and interests using their permanent email addresses.

35. In or around 2019, AutoGraph developed and launched its Email Cloaking product, which is the subject of the '107 Patent.

36. The '107 Patent originally was assigned to AutoGraph by its inventor, Brian Roundtree. AutoGraph subsequently transferred ownership of the '107 Patent to Rally, and Rally is the current owner of all rights, titles, and interests in and to the '107 Patent.

## THE PATENT-IN-SUIT

37. On June 14, 2022, the '107 Patent, titled "Privacy Friendly Communication by Operation of Cloaked/Decloaked Email," was duly and legally issued by the United States Patent and Trademark Office ("USPTO") to Rally, Inc., with Brian Roundtree as named inventor, and Rally AG LLC as assignee. A copy of the '107 Patent is attached hereto as **Exhibit A.**

38. Plaintiff is the owner of the entire right, title, and interest in and to the '107 Patent, including the right to sue for and collect past, present, and future damages and to seek and obtain injunctive or any other relief for infringement of the '107 Patent.

39. The '107 Patent generally relates to protecting privacy for end users and others on the Internet when communicating with others through computer network email systems. Specifically, the '107 Patent discloses tools to enable an end user's device to communicate via email with others such as relying-parties (e.g., merchants, third parties, etc.) without revealing their information to the relying-party such as their email address, name or any other information they desire to keep confidential while still being able to have commercially useful transactions with the relying parties and others.

40. The ’107 Patent describes the invention of the ’107 Patent, the claims of which encompass patentable subject matter that are differentiated from common methods.

41. For example (and by way of example only), in one embodiment, the ’107 Patent shows that the claim recites subject matter specific to the email technological environment as shown in the following limitations from Claim 13:

- wherein the domain of the cloaked end user address and the domain associated to the cloaked ID system are the same domain,
- wherein the new cloaked relying party email address is generated with a domain different than the relying party address, and
- wherein the email is configured with a reply-to email address comprising the new cloaked relying party email address.

42. The ’107 Patent is directed to a technologically improved environment specific to computer network email communications. In this environment, it is rarely an option for consumers not to give out their personal information such as email information, name, phone number etc., and still conduct a transaction in today’s information centric economy.

43. The ’107 Patent identifies two different domains that exist within which an artificially generated email address is used to cloak or hide the user’s identity from a third party.

44. Additionally, during the email communication process, the invention of the ’107 Patent enables emails exchanged between the end user and third party to maintain email chain threading. For example, this may be done by the cloaking system intermediary substituting email addresses as emails are sent between the end user and third party. Email chain threading has the benefit of not only keeping the cloaking system as an intermediary but also protecting the end

user's privacy and allowing deployment of the disclosed tools without the need to modify the end user's email system or third party's email system.

45. Further, the particular elements of the claims of the '107 Patent, considered both individually and as an ordered combination, transform the nature of the claim into a patent-eligible application. For example, the '107 Patent specifies how interactions within a specific email computer environment are manipulated to yield a desired result – a result that overrides the routine and conventional sequence of events ordinarily triggered by the sending of an email involving a third party.

46. Further, the non-routine and unconventional approach of the invention of the '107 Patent shows that the invention of the '107 Patent is specific to the email technological environment, such as the following examples:

- wherein the domain of the cloaked end user address and the domain associated to the cloaked ID system are the same domain,
- wherein the new cloaked relying party email address is generated with a domain different than the relying party address, and
- wherein the email is configured with a reply-to email address comprising the new cloaked relying party email address.

47. Unlike conventional email processing, for example, the system of the '107 Patent email is configured with a reply-to email address comprising the new cloaked relying party email address. This processing occurs within a two-domain computer environment.

48. Accordingly, "inventive concept" of the '107 Patent involves non-routine and unconventional processing that is not found in the industry.

**COUNT I**
**INFRINGEMENT OF THE '107 PATENT**

49. Plaintiff repeats and realleges the above paragraphs, which are incorporated by reference as if fully restated herein.

50. Plaintiff is the owner of all rights, title, and interest in the '107 Patent and, at a minimum, all substantial rights in the '107 Patent, including the exclusive right to enforce the patent and all rights to pursue damages, injunctive relief, and all other available remedies for past, current, and future infringement.

51. Plaintiff and its predecessors in interest have never licensed the Defendant under the '107 Patent, nor has Plaintiff otherwise authorized the Defendant to practice any part of the '107 Patent.

52. The '107 Patent is presumed valid under 35 U.S.C. § 282.

53. Defendant operates, provides, and controls systems and methods that cloak and decloak emails.

54. On information and belief, Defendant, alone and/or jointly in conjunction with employees, agents, and/or customers under its control, has directly and/or indirectly infringed and continues to directly and/or indirectly infringe the '107 Patent pursuant to 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, by using computerized methods and systems for cloaking and decloaking email messages that are covered by one or more claims of the '107 Patent including Claim 13 of the '107 Patent without license or authority.

55. For example, the infringing activities utilize applications operated or licensed by Defendant that enables, contributes to, and induces its customers and users to cloak and decloak messages.

56. These activities infringe at least Claim 13 of the '107 Patent.

57. By way of example, Claim 13 of the '107 Patent recites:

> *13. A non-transitory computer readable medium for a ID cloaking system having instructions stored thereon that are executable by processor electronics to:*
>
> *receive an email addressed to a cloaked end user address, wherein the email is sent from a relying party email address, and wherein the domain of the cloaked end user address and the domain associated to the cloaked ID system are the same domain;*
>
> *identify an end user specified address associated to the cloaked end user address by an end user profile;*
>
> *determine whether the end user profile contains a previous association between the relying party address and a cloaked relying party email address, wherein the relying party address has a different domain than the cloaked relying party email address;*
>
> *where the end user profile does not contain a previous association between the relying party address and the cloaked relying party email address, then generate a new cloaked relying party email address and associate the new cloaked relying party email address to the end user profile, the cloaked end user address, wherein the new cloaked relying party email address is generated with a domain different than the relying party address; an*
>
> *send the email to the identified end user specified address, wherein the email is configured with a reply-to email address comprising the new cloaked relying party email address.*

58. As a result of Defendant's infringement of the '107 Patent, Plaintiff has suffered monetary damages in an amount yet to be determined and will continue to suffer damages in the future. Defendant is liable to Plaintiff for such damages, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

59. Defendant's wrongful acts have damaged and will continue to damage Plaintiff irreparably, and Plaintiff has no adequate remedy at law for those wrongs and injuries. In addition to its actual damages, Plaintiff is entitled to a permanent injunction that restrains and

enjoins Defendant and its agents, servants, and employees, and all persons acting thereunder, in concert with, or on its behalf, from infringing the '107 Patent.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

A. A judgment in favor of Plaintiff that Defendant has been and is infringing the '107 Patent pursuant to 35 U.S.C. §§ 271(a) and/or 271(b);

B. A permanent injunction enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in concert or privity with any of them from infringing any claims of the '107 Patent, with any additional compensation before imposition of such injunction to Plaintiff in an amount to be determined by the Court;

C. A judgment awarding Plaintiff all damages adequate to compensate it for Defendant's infringement of the Asserted Patents under 35 U.S.C. § 284, and in no event less than a reasonable royalty for Defendant's acts of infringement, including all pre-judgment and post-judgment interest at the maximum rate permitted by law, and also any past damages permitted under 35 U.S.C. § 286, as a result of Defendant's infringement of any claims of any of the Asserted Patents;

D. A compulsory royalty going forward after trial and/or entry of final judgment if an injunction is not granted;

E. An accounting for all damages including damages between trial and entry of final judgment;

F. An assessment of costs, including reasonable attorneys' fees pursuant to 35 U.S.C. § 285, and prejudgment interest against Defendant; and

G. Such other and further relief as this Court may deem just and proper.

**JURY TRIAL DEMANDED**

Pursuant to FED. R. CIV. P. 38, Plaintiff hereby demands a trial by jury on all issues so triable.

MORRIS, NICHOLS, ARSHT &TUNNELL LLP

*/s/ Rodger D. Smith II*

Rodger D. Smith II (#3778)
Lucinda C. Cucuzzella (#3491)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899-1347
(302) 658-9200
rsmith@morrisnichols.com
ccucuzzella@morrisnichols.com

*Attorneys for Plaintiff*

OF COUNSEL:

Bruce J. Rose
ALSTON & BIRD, LLP
101 South Tryon Street, Suite 4000
Charlotte, NC 28280
(704) 444-1000

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