

# INTELLECTUAL ASSETS

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## STRATEGIES TO PROTECT YOUR INTELLECTUAL PROPERTY



### By Bradley J. Gross

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Apple is being sued for patent infringement—and the case could have serious ramifications for all manufacturers of portable media players, iPod or otherwise.



Atlanta-based ZapMedia Services, Inc. filed a patent infringement lawsuit against Apple, Inc., claiming that Apple's iTunes music store is willfully infringing two of ZapMedia's patents. (ZapMedia Services, Inc. v. Apple, Inc., No. 08-CV-104, complaint filed (E.D. Tex., Marshall Div. Mar. 12, 2008))

The patents at issue (U.S. Patent Nos. 7,020,704 and 7,343,414) purport to cover the technology that iTunes uses to synchronize music with Apple's ubiquitous iPod devices. Specifically, the '704 patent covers a "system and method for distributing media assets to user devices via a portal synchronized by said user devices." The '414 patent covers a "system and method for distributing media assets to user devices and managing user rights of the media assets."

In sum, ZapMedia is claiming that the sync function used by iTunes (and virtually all other media players) violates the claims of the by ZapMedia's patents.

The venue for the lawsuit is the Eastern District of Texas—a location that was labeled as the nation's worst "judicial hellhole" by the American Tort Reform Association in its 2007 annual report. That may be problematic for Apple, since that district is widely believed to be a plaintiff-friendly jurisdiction.

The complaint, which (unfortunately) fails to provide specific details about how the patents are being infringed, can be viewed through the following link:

<http://docs.justia.com/cases/federal/district-courts/texas/txedce/2:2008cv00104/108560/1/0.html>

We will continue to follow this case and evaluate the impact it might have on our clients' intellectual property. If you have any questions about this or any other patent litigation matter, please contact the IP Litigation Team of Becker & Poliakoff at [IPTeam@becker-poliakoff.com](mailto:IPTeam@becker-poliakoff.com).

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*Becker & Poliakoff's Intellectual Property Law Group provides aggressive representation for our client's most valued assets. Our litigators have litigated claims for trademark, trade dress and copyright infringement, patent infringement, unfair competition, false designation of product origin, and trademark dilution.*

*This newsletter is intended to be informational only and does not constitute legal advice regarding any specific situation. It may be considered advertising under applicable court rules. To consult with an attorney on a specific situation, call Gary Rosen, Chair of the IP Litigation Group, at 954-985-4133.*