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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
[Handwritten signatures and initials]

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E-filing
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EDL

11 DON RUBIN,

12 Plaintiff,

13 vs.

14 APPLE INC.

15 Defendant.

CV No. 09 2607

COMPLAINT FOR COPYRIGHT
INFRINGEMENT

JURY TRIAL REQUESTED

NATURE OF COMPLAINT

19 1. Don Rubin has been described in The World Almanac as "America's premiere
20 puzzlemaster." His syndicated weekly puzzle column entertained 15 million readers per week
21 in 20 countries, establishing records for response that remain unprecedented in newspaper
22 history. More than a million readers mailed in solutions annually - the volume so
23 overwhelming that the US Post Office in Chicago gave Don his own ZIP code.

24 2. In 1977, Mr. Rubin created and published the original parking lot puzzle—first
25 entitled "Lots of Luck." Since then, the puzzle or authorized derivations of it under several

1 different names have appeared in hundreds of periodicals around the world to international
2 acclaim. It was hailed as one of “the greatest puzzles of all time” in Prentice Hall’s book of the
3 same name.

4 2. Recently, defendant Apple began selling an iPhone application called ParkingLot,
5 which copies the Puzzle in all material respects. ParkingLot has been one of the best selling
6 iPhone games.

7 3. ParkingLot is an authorized use of plaintiff’s copyrighted Puzzle. This lawsuit
8 seeks appropriate relief under the Copyright Act.

9
10 **JURISDICTION AND VENUE**

11 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1338(a)
12 because this action arises under the copyright laws of the United States. In addition, there is
13 complete diversity of citizenship between the parties and the amount in controversy exceeds
14 \$75,000.

15 5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 because
16 Apple has done business and is headquartered in this judicial district, has committed acts of
17 copyright infringement in this district, and continues to commit such acts in this district.
18 Because this is an Intellectual Property case, it is not subject to the intra-District venue
19 provisions of Northern District of California Local Rule 3-2(c).

20 **PARTIES**

21 6. Plaintiff Don Rubin is a United States citizen from Newton, Massachusetts
22 currently working and living in Bangkok, Thailand.

23 7. Defendant Apple Inc. is a California corporation with its principal place of
24 business in Cupertino, California. Apple makes and sells computer products including the
25 iPhone. Apple licenses iPhone applications, including ParkingLot, from its iTunes App Store.

SPECIFIC ALLEGATIONS

1
2 8. On and before October 1, 1977, plaintiff invented the restricted movement sliding
3 block puzzle originally entitled "Lots of Luck."

4 9. On and after October 1, 1977, plaintiff created and published five derivative
5 versions of "Lots of Luck" including "Thanks. A lot" (1979); "Show Room" (1981); "Jeepers!"
6 (1983); "Lots of Luck II" (1988); and "Lots of Luck: (a different version) (1988). Collectively
7 these six restricted movement sliding block puzzles are referred to herein as the "Puzzle." A
8 copy of one such derivation is attached as Exhibit A.

9 10. The Puzzle contains a large amount of material wholly original with plaintiff and
10 is copyrightable subject matter under the laws of the U.S.

11 11. On and after October 1, 1977, plaintiff complied in all respects with the Act and
12 all other laws governing copyright, and secured the exclusive rights and privileges in and to the
13 copyright of said Puzzle. The Puzzle has been registered with the Register of Copyrights as a
14 contribution to a serial publication and in various other forms numerous times since 1977
15 including, without limitation, the copyright registrations listed on Exhibit B.

16 12. Since October 1, 1977, said Puzzle has been published and distributed by plaintiff
17 through a variety of media including, without limitation, publication in The Real Paper of
18 Boston, Massachusetts, the book "What's the Big Idea;" United Features Syndicate; "The
19 World Almanac Real Puzzle Book;" "The Greatest Puzzles of All Time;" Horderns' Sliding
20 Piece Puzzles;" and "More Brainstorms." All copies of it made under his authority or license
21 have been issued in strict conformity with the provisions of the Act and all other laws governing
22 copyright.

23 13. Since October 1, 1977 plaintiff has been and still is the sole proprietor of all
24 rights, title and interest in and to the copyright in said Puzzle.

25 14. On and after January 1, 2008, defendant infringed said copyright by reproducing,
selling, publishing and otherwise distributing an iPhone application entitled "ParkingLot"
which was copied from plaintiff's copyrighted Puzzle.

1 15. Plaintiff has notified defendant that defendant has infringed the copyright of
2 plaintiff, but defendant has not agreed to discontinue its infringing actions.

3 WHEREFORE, plaintiff prays for judgment against defendant

4 1. That defendant, its agents, and servants be enjoined during the pendency of this
5 action and permanently from infringing said copyright of said plaintiff in any manner, and from
6 publishing, selling, marketing, or otherwise disposing of any copies in any format of the iPhone
7 application entitled "ParkingLot."

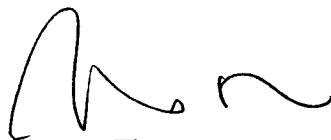
8 2. That defendant be required to pay to plaintiff such damages as plaintiff has
9 sustained in consequence of defendant's infringement of said copyright and to account for all
10 gains, profits and advantages derived by defendant by its infringement of plaintiff's copyright or
11 such damages as to the court shall appear proper within the provisions of the copyright statutes.

12 3. That defendant be required to deliver up to be impounded during the pendency of
13 this action all copies of "ParkingLot" in its possession or under its control and to deliver up for
14 destruction all infringing copies and all other matter for making such infringing copies.

15 4. That defendant pay to plaintiff the costs of this action and reasonable attorneys'
16 fees to be allowed to the plaintiff by the court.

17 5. That plaintiff have such other and further relief as is just.

18 Dated: June 9, 2009



19
20 Thomas A. Cohen
Attorney for plaintiff

21 DEMAND FOR JURY TRIAL

22 Plaintiff hereby demands a jury trial as provided by Rule 38(a) of the Federal Rules of
23 Civil Procedure.

24 Dated: June 9, 2009



25 Thomas A. Cohen
Attorney for plaintiff

Exhibit A

More Brainstorms

Real Puzzles for the
Real Genius

by Don Rubin

with illustrations by Roger Jones



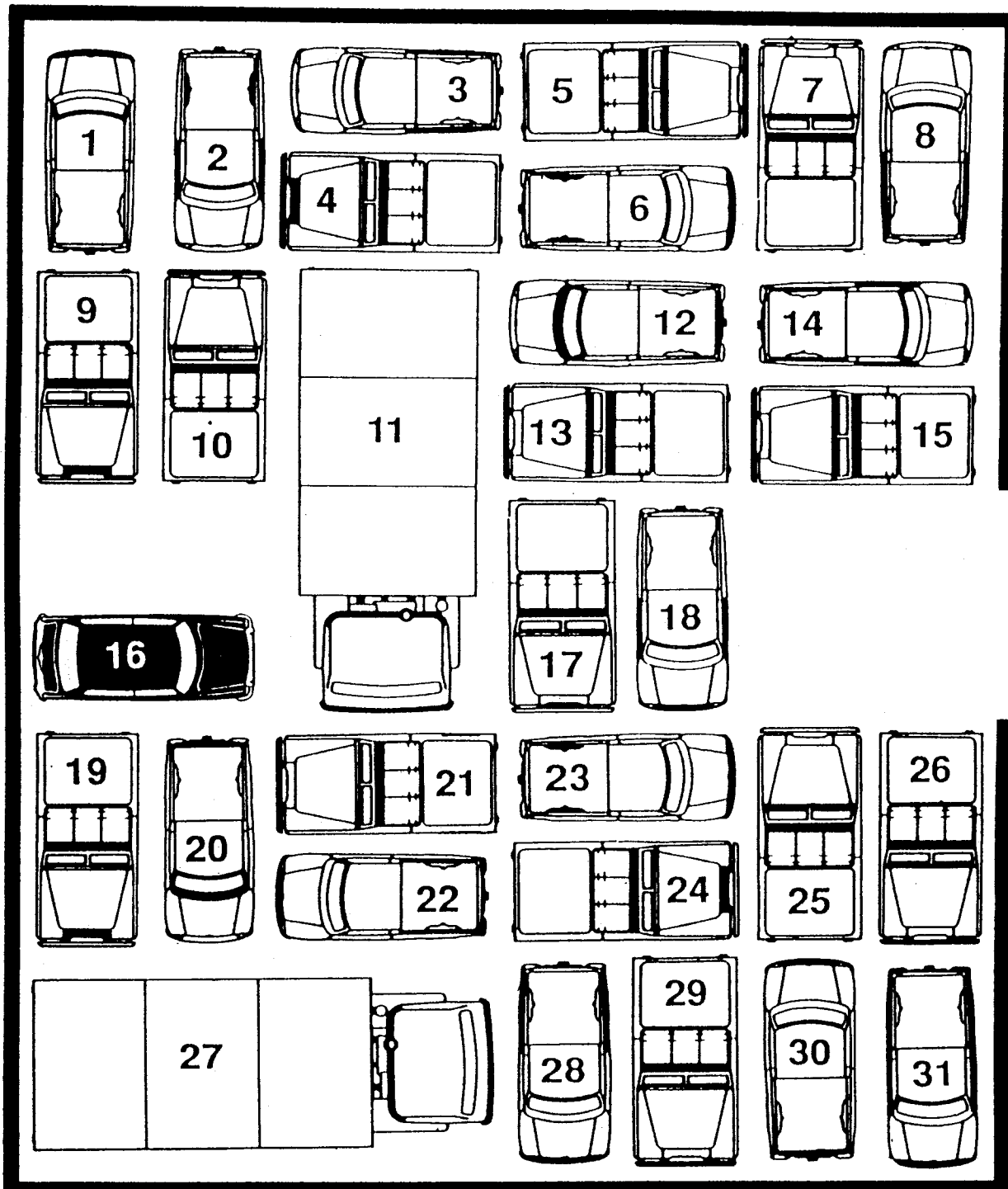
HarperPerennial

A Division of HarperCollins Publishers

26. Lots of luck

What is the fewest number of moves necessary to get the black car out of the lot? The vehicles may move forward or backward in a straight line only. (No packing, cramming or mere inching up.) And you must count *every* move, even if you shift the same vehicle more than once.

List the numbers of the vehicles, in order, in the space provided.



Total:

Exhibit B

Copyright registrations:

"Lots of Luck" October 1, 1977

Catalog of Copyright Entries, 3rd Series, Part II, Periodicals

The Real Paper

(c) The Real Paper

v.6 no.

39, 1Oct77. (c)24Sept.; B256654 [iss. #; iss. date; pub. date; reg. #]

40, 8Oct77. (c)1Oct.; B271279

41, 15Oct77. (c)8Oct.; B261424

42, 22Oct77. (c)15Oct.; B261425

"Thanks. A Lot" June 30, 1979

CSN 006517 PERIOD 79-2 <COHS> [Copyright Serial History File]

TITL: The Real paper, Boston

NOTE: Weekly except bi-weekly at year end.

CFCT: Appl. au.: The Real Paper, Inc., employer for hire.

HLDG: *The Real Paper, Inc.

v 8, no.

TX 288-672. 5Jul79; 7Jul79; DCR 1979; PUB 30Jun79

"Lots of luck" in "What's the Big Idea?"-- a compilation of puzzles published in the U.S. by Lippincott (and, in England, by A&C Black).

TX-317-436 <COHM> [The Copyright Monograph History file]

TITL: What's the big idea? and thirty-five other unusual puzzles / by acDon Rubin; with ill. by Roger Jones.

EDST: 1st ed.

IMPR: Philadelphia: Lippincott, c1979

PHYS: 1 v.

ISBN: ISBN 0-397-01356-6

CLNA: Don Rubin

DCRE: 1978 DPUB: 6Jun79 DREG: 17 Aug79

APAU: introd.: Don Rubin, employer for hire of Abe Peck

PREV: Puzzles and ill. originally pub. in The Real Paper

LINM: NM: compilation and introd.

ECIF: 1/B/D

"Jeepers" was syndicated by United Feature Syndicate in 1983, and appeared in the World Almanac's Real Puzzle Book in 1984.

TX-1-662-262 <COHM>

TITL: The World Almanac Real Puzzle book / by Don Rubin ; with ill.
by Roger Jones.

IMPR: New York: World Almanac Publications, 1984.

PHYS: 94p

CLNA: United Feature Syndicate

DCRE: 1984 DPUB: 15Sep84 DREG: 25Mar85

MISC: C.O. corres.

ECIF: 1/B

"Thanks a lot" (version two) appeared in "More Brainstorms", published by HarperCollins in 1990. I have not yet found the registration.

Copyright to all puzzles published by The Real Paper prior to August, 1978 reverted to the author in July, 1980.

Copyright to all puzzles syndicated by United Feature Syndicate reverted to the author in December, 1989.