

June 1, 2012

VIA ECF

The Honorable Robert Brack
U.S. District Court Judge
United States District Court
District of New Mexico
100 North Church Street
Las Cruces, New Mexico 88001

RE: *STC.UNM v. Intel Corporation*, CIV 10-1077 RB/WDS

Dear Judge Brack:

We write to provide a joint response to the matters listed in your Honor's letter of May 18. The parties' respective updates and comments are set forth below.

1. Joinder of Sandia Corporation as a party in the instant action.

STC.UNM

STC.UNM has conferred with Sandia and understands that its position is that it is not willing to voluntarily join. Accordingly, STC.UNM intends to file a motion to add Sandia as a necessary party to the case pursuant to Fed. R Civ. P. 19. With the Court's approval, STC.UNM will have its motion filed by June 13.

Intel

Intel understands that STC.UNM's motion to join Sandia Corporation as an involuntary plaintiff is STC.UNM's only proposed cure for its lack of standing. Although Intel first learned of STC's planned motion only yesterday, Intel will oppose it because Intel believes there is no merit or legal basis for STC to bring such a motion. Intel understands that Sandia Corporation will also oppose the motion.

Given its understanding of the governing law on this issue, Intel has asked STC.UNM to provide a legal basis for the involuntary joinder, but STC has refused to provide any explanation before it files its motion. As part of Intel's opposition to STC.UNM's motion to join Sandia Corporation as an involuntary plaintiff, Intel intends to move to dismiss or stay STC.UNM's claim for the period after STC.UNM's December 1, 2011, assignment to Sandia Corporation based on STC.UNM's lack of standing during that period.

2. Development of the factual record regarding Sandia Corp.'s ownership interest in Patent '321

STC.UNM

STC.UNM has been informed by Sandia that it will provide an affidavit to both parties regarding its ownership of the '321 and '998 patents. It is STC.UNM's expectation that the

affidavit will clear up any outstanding issues of fact underlying the Court's summary judgment decision.

Intel

Intel intends to review the declaration from Sandia Corporation and to meet and confer with STC.UNM about whether further discovery or briefing is appropriate in view of the declaration.

3. Progress of settlement discussions.

STC.UNM

STC.UNM has conferred with Intel in attempts to schedule a settlement meeting. Intel has not provided an offer and refuses to meet. STC.UNM remains open to talking settlement.

Intel

Intel disagrees with STC.UNM's characterization of settlement discussions.

At various times before and during litigation, Intel and STC have discussed the possibility of settlement. After Intel amended its complaint last year to add an unenforceability defense, Intel sought a demand from STC. STC's response indicated the parties had vastly differing views about the value of the case. After the hearing on Intel's summary judgment motion, Intel cooperatively engaged with STC.UNM about settlement in accordance with the Court's suggestions at the hearing. At STC's insistence that Intel make an offer, Intel offered to resolve the case within a dollar value range that Intel believed reflected the cost and risk of the case. STC refused to discuss settlement within that range and did not make a counteroffer. Notwithstanding STC's rejection of Intel's proposal and failure to provide a counteroffer, Intel agreed to an in-house and outside counsel meeting with STC, at a place of STC's choosing, to discuss the parties' opposing views of the case and see if the gap on settlement could be narrowed. While those logistics were being worked out, the Court issued its summary judgment ruling. After that ruling, Intel asked STC to provide an update on the standing issue as that was a precondition to any continuation of the lawsuit and thus settlement discussions. STC.UNM provided no response until May 31, when its outside counsel indicated that it planned to move to join Sandia Corporation involuntarily. STC.UNM has not provided an updated demand or settlement position that accounts for the Court's order on summary judgment or STC.UNM's current lack of standing.

4. Future proceedings.

STC.UNM

While STC.UNM firmly believes that its motion to join Sandia will be meritorious, it is equally mindful of the Court's resources. Should the Court desire to reset the *Markman* hearing for a later date, STC.UNM has no objection.

Intel

Because STC cannot litigate its claim without curing its current lack of standing and the only solution STC has proposed is a motion that both Intel and Sandia will oppose, Intel respectfully suggests that it would not be an efficient use of the Court's time and attention to conduct further proceedings on the merits until standing is resolved. In particular, any ruling on claim construction before all owners of the patent in suit are before the Court would be a waste of resources if standing were not cured. Therefore, Intel respectfully suggests that further claim construction proceedings at this time run the risk of wasting the Court's resources.

In addition, Intel notes that July 2 presents a conflict for Intel's lead trial counsel, Robert Van Nest, who will be in trial on another matter, and Intel's expert, Dr. Bruce Smith, who will be on a family vacation then. Should the Court wish to schedule a claim construction hearing before it rules on the standing and involuntary joinder issues, Intel proposes that the parties' counsel confer with the Court's deputy to determine dates convenient for the Court, both parties, and both parties' experts.

Respectfully submitted,

/s/Steven R. Pedersen

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CERTIFICATE OF SERVICE

The undersigned certifies that on the 1st day of June, 2012 the foregoing was filed electronically through the CM/ECF system, which caused all parties or counsel to be served by electronic means.

/s/Steven R. Pedersen
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