

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

|   |   |                                      |
|---|---|--------------------------------------|
| <b>MICROUNITY SYSTEMS ENGINEERING, INC.</b> | § |                                      |
|   | § |                                      |
| <b>Plaintiff,</b>                           | § |                                      |
|   | § | <b>CASE NO. 2:10-CV-00185-TJW-CE</b> |
| <b>v.</b>                                   | § |                                      |
|   | § | <b>REQUEST FOR JURY TRIAL</b>        |
| <b>ACER, INC., ET AL.,</b>                  | § |                                      |
|   | § |                                      |
| <b>Defendants.</b>                          | § |                                      |

**ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS OF  
SAMSUNG ELECTRONICS CO., LTD.; SAMSUNG SEMICONDUCTOR, INC.; AND  
SAMSUNG TELECOMMUNICATIONS AMERICA, LLC TO  
MICROUNITY SYSTEMS ENGINEERING, INC.’S COMPLAINT**

Defendants Samsung Electronics Co., Ltd.; Samsung Semiconductor, Inc.; and Samsung Telecommunications America, LLC (collectively, “Samsung”) hereby answer the Complaint (“Complaint”) filed by Plaintiff MicroUnity Systems Engineering, Inc. (“MicroUnity”) on June 3, 2010. Samsung denies each and every allegation contained in the Complaint that is not expressly admitted below.

**PARTIES**

1. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 of the Complaint, and therefore denies those allegations.
2. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2 of the Complaint, and therefore denies those allegations.
3. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3 of the Complaint, and therefore denies those allegations.

4. Samsung admits that Samsung Electronics Co., Ltd. (“SEC”) is a public limited company duly organized and existing under the laws of Republic of Korea. Samsung also admits that Samsung Semiconductor, Inc. (“SSI”) is a wholly owned subsidiary of SEC, and is a corporation duly organized and existing under the laws of the state of California, with its principal place of business at 3655 North First Street, San Jose, California 95134. Samsung admits that SEC manufactures the S5PC100 and the Apple A4 processors. Samsung denies the remaining allegations of paragraph 4 of the Complaint.

5. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5 of the Complaint, and therefore denies those allegations.

6. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6 of the Complaint, and therefore denies those allegations.

7. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7 of the Complaint, and therefore denies those allegations.

8. Samsung admits Samsung Telecommunications America, LLC (“STA”) is a wholly owned subsidiary of SEC, and is a limited liability company duly organized and existing under the laws of the state of Delaware, with its principal place of business at 1301 East Lookout Drive, Richardson, Collin County, Texas 75082. Samsung admits that SEC manufactures the Galaxy Spica GT-i5700 and OmniaHD i8910 cell phones. Samsung denies the remaining allegations of paragraph 8 of the Complaint.

9. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9 of the Complaint, and therefore denies those allegations.

10. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10 of the Complaint, and therefore denies those allegations.

11. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11 of the Complaint, and therefore denies those allegations.

12. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12 of the Complaint, and therefore denies those allegations.

13. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13 of the Complaint, and therefore denies those allegations.

14. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 14 of the Complaint, and therefore denies those allegations.

15. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15 of the Complaint, and therefore denies those allegations.

16. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16 of the Complaint, and therefore denies those allegations.

### **JURISDICTION AND VENUE**

17. Samsung admits that the Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the Complaint purports to set forth an action under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* Samsung denies the remaining allegations of paragraph 17 of the Complaint.

18. Samsung admits that the present action involves one patent (U.S. Patent No. 5,742,840) that was asserted in the prior actions, *MicroUnity Systems Engineering, Inc. v. Intel Corp. and Dell, Inc.*, C.A. No. 2:04-cv-120; *MicroUnity Systems Engineering, Inc. v. Sony Computer Entertainment America Inc.*, C.A. No. 2:05-cv-505; *MicroUnity Systems Engineering, Inc. v. Advanced Micro Devices, Inc.*, C.A. No. 2:06-cv-486, and pending action *MicroUnity Systems Engineering, Inc. v. Acer Inc., et al.*, C.A. No. 2:10-cv-91, and that each of these prior

actions was filed in the United States District Court for the Eastern District of Texas, Marshall Division. Samsung denies the remaining allegations of paragraph 18 of the Complaint.

**INFRINGEMENT OF U.S. PATENT NO. 5,742,840 C1**

19. Samsung admits that U.S. Patent No. 5,742,840 (“the ’840 patent”) was issued on April 21, 1998 and is entitled, “General Purpose, Multiple Precision Parallel Operation, Programmable Media Processor.” Samsung also admits that a copy of the ’840 patent was attached as Exhibit C to the Complaint. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 19, and therefore denies those allegations.

20. Samsung admits that the ’840 patent has been the subject of a reexamination proceeding, reexamination request number 90/007,583, in which the patentability of claim 11 is confirmed, claim 1 is amended and determined to be patentable, claims 2-6, 8 and 9 are determined to be patentable based on their dependency of amended claim 1, and claims 7 and 10 are canceled. Samsung also admits that a copy of the Reexamination Certificate 5,742,840 C1 is attached to the Complaint as Exhibit C1. Samsung further admits that if claim 1 was substantively changed during reexamination, then claims 1-6, 8 and 9 would have an effective date no earlier than May 4, 2010. Samsung denies the remaining allegations of paragraph 20 of the Complaint.

21. Samsung admits that SEC manufactures, uses, and sells the S5PC100 processor. Samsung denies the remaining allegations of paragraph 21 of the Complaint as to itself. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 21 as to the other defendants, and therefore denies those allegations.

22. Samsung admits that SEC manufactures, uses, and sells the Galaxy Spica GT-i5700 and OmniaHD i8910 mobile phones. Samsung denies the remaining allegations of

paragraph 22 of the Complaint as to itself. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 22 as to the other defendants, and therefore denies those allegations.

23. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 23 of the Complaint, and therefore denies those allegations.

24. Samsung denies the allegations of paragraph 24 of the Complaint as to itself. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 24 as to the other defendants, and therefore denies those allegations.

25. Samsung admits that SEC has had communications and contact with MicroUnity. Samsung denies the remaining allegations of paragraph 25 of the Complaint as to itself. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 25 as to the other defendants, and therefore denies those allegations.

#### **INFRINGEMENT OF U.S. PATENT NO. 7,730,287 B2**

26. Samsung admits that U.S. Patent No. 7,730,287 (“the ’287 patent”) was issued on June 1, 2010 and is entitled, “Method and Software for Group Floating-Point Arithmetic Operations.” Samsung also admits that a copy of the ’287 patent was attached as Exhibit U to the Complaint. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 26, and therefore denies those allegations.

27. Samsung admits that SEC manufactures, uses, and sells the S5PC100 processor. Samsung denies the remaining allegations of paragraph 27 of the Complaint as to itself. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 27 as to the other defendants, and therefore denies those allegations.

28. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 28 of the Complaint, and therefore denies those allegations.

29. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 29 of the Complaint, and therefore denies those allegations.

30. Samsung denies the allegations of paragraph 30 of the Complaint as to itself. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 30 as to the other defendants, and therefore denies those allegations.

31. Samsung denies the allegations of paragraph 31 of the Complaint as to itself. Samsung lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 31 as to the other defendants, and therefore denies those allegations.

### **JURY DEMAND**

32. Samsung hereby demands that all issues be determined by jury.

### **PRAYER FOR RELIEF**

In response to MicroUnity's prayer for relief, Samsung denies that MicroUnity is entitled to any of the relief it seeks.

### **AFFIRMATIVE DEFENSES**

Without acknowledging that Samsung bears the burden of proof or burden of persuasion with respect thereto, Samsung asserts the following affirmative defenses to MicroUnity's Complaint.

#### **FIRST AFFIRMATIVE DEFENSE**

33. MicroUnity's Complaint fails to state any claim upon which relief may be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

34. Samsung has not infringed any valid and enforceable claim of the '840 and '287 patents (collectively, the "patents-in-suit") either directly or indirectly, and either literally or under the doctrine of equivalents.

**THIRD AFFIRMATIVE DEFENSE**

35. The claims of the patents-in-suit are invalid under 35 U.S.C. § 1 *et seq.*, including, but not limited to, §§ 101, 102, 103, and 112.

**FOURTH AFFIRMATIVE DEFENSE**

36. MicroUnity's claims for damages are barred because Samsung has a license to the patents-in-suit.

**FIFTH AFFIRMATIVE DEFENSE**

37. Based on representations, admissions, arguments, and amendments made by or on behalf of MicroUnity during the prosecution of the patents-in-suit, MicroUnity's claims against Samsung are barred in whole or in part by the doctrine of prosecution history estoppel.

**SIXTH AFFIRMATIVE DEFENSE**

38. MicroUnity is not entitled to any injunctive relief because it has not suffered irreparable harm and has an adequate remedy at law.

**SEVENTH AFFIRMATIVE DEFENSE**

39. MicroUnity's claims for damages are barred because it failed to mark relevant products as required by 35 U.S.C. § 287.

**EIGHTH AFFIRMATIVE DEFENSE**

40. MicroUnity's claims for back damages are barred in part under the doctrine of intervening rights.

**NINTH AFFIRMATIVE DEFENSE**

41. MicroUnity's claims are barred in whole or in part under the equitable doctrines of laches, estoppel, waiver, and/or acquiescence.

## TENTH AFFIRMATIVE DEFENSE

42. Samsung is informed and believes, and, on that basis, alleges that '840 and '287 patents are unenforceable due to inequitable conduct by the named inventors and/or MicroUnity's patent attorneys in failing to discharge their duty of candor to the Patent Office during the prosecution of the applications leading to the issuance of these asserted patents. The inventors Moussouris and Hansen and/or MicroUnity's attorneys who prosecuted these patents, including at least Kenneth Cage, with intent to deceive the Patent Office examiner, (1) knowingly withheld material information, and (2) improperly attempted to change the priority dates of certain applications.

### Withholding Material Information from the USPTO

43. Upon information and belief, the named inventors were aware of prior art references and the sale of prior art products that they knew to be material to the prosecution of these patent applications yet withheld the references from the Patent Office. Moussouris was the chief executive officer of MicroUnity and Hansen was the chief architect of the MicroUnity media processor.

44. Upon information and belief, prior to the issuance of the '840 patent, MicroUnity (and Moussouris and Hansen, as CEO and chief architect, respectively) was involved in a "technology collaboration" with Hewlett Packard ("HP") and several of its employees, including at least Ruby Lee, Jerry Huck, and Michael Mahon. Beginning in January 1994, HP sold the PA-7100LC microprocessor, part of the HP PA-RISC family of processors. The PA-7100LC included multimedia extensions to its microprocessor instruction set that implemented dynamic partitioning for parallel processing of packed data elements. Lee was the architect of the Hewlett Packard media instruction set, and filed patents and published articles pertaining to dynamic partitioning of media data prior to the filing of the '840 patent application. For instance, Lee



filed two patent applications that matured into U.S. Patent Nos. 5,636,351 and 5,390,135, and published the article Ruby B. Lee, *Accelerating Multimedia with Enhanced Microprocessors*, IEEE Micro, April 1995 (“the Lee Article”). These multimedia instructions permit dynamic partitioning of the execution unit to perform group operations in parallel. These publications and patent applications are all prior art to the ’840 Patent family. In addition, the PA-7100LC processors implementing these media instructions were sold in January 1994, more than one year prior to the application date of the ’840 Patent.

45. Upon information and belief, Ruby Lee, Jerry Huck, and Michael Mahon were all actively involved in the design and implementation of the second-generation multimedia instruction set extensions for the HP PA 8000 microprocessor in 1995 and 1996, prior to the issue date of the ’840 Patent. These multimedia instruction set extensions also implemented dynamic partitioning for parallel processing of packed data elements. Upon information and belief, Lee, Huck, and Mahon were all also involved in the technology collaboration with MicroUnity.

46. Upon information and belief, Moussouris, as CEO of MicroUnity, and Hansen, as chief architect of the MicroUnity media processor, were in contact with the HP team (and Lee, Huck, and Mahon, in particular) during the technology collaboration, and were aware or became aware of the multimedia instruction set extensions to the HP processors prior to the issue date of the ’840 Patent. Despite knowledge of HP’s multimedia extensions, Moussouris and Hansen failed to cite the prior art HP 7100LC microprocessor or Lee’s article during the prosecution of the ’840 Patent and therefore intentionally failed to disclose to the USPTO all information known to Moussouris and Hansen to be material to patentability

47. The HP 7100LC microprocessor and the Lee Article, *Accelerating Multimedia with Enhanced Microprocessors*, IEEE Micro, April 1995, were material to the USPTO's examination of the '840, '061, and '318 Patents. During prosecution of several of the patents in the '840 Patent Family, including the '840 Patent, MicroUnity successfully distinguished prior art by arguing that the prior art references did not disclose "dynamic partitioning . . . for parallel processing." During the prosecution of the '840 Patent, Moussouris and Hansen overcame rejections by arguing that the cited prior art references did not include dynamic partitioning of media data that is narrower than the data path for parallel processing. The HP 7100LC microprocessor performed dynamic partitioning of media data that is narrower than the data path for parallel processing. The Lee Article disclosed dynamic partitioning of media data that is narrower than the data path for parallel processing..

48. Upon information and belief, despite the materiality of the HP prior art processors and publications, Moussouris and Hansen intentionally withheld these references during the prosecution of '840, '061, and '318 Patents from the USPTO in violation of their duty of candor.

49. In addition, in a document submitted to the Patent Office during the prosecution of the application that became U.S. Patent No. 7,660,973, Moussouris and Hansen are copied on an internal MicroUnity email dated August 16, 1995 (the filing date of the application that would become the '840 Patent) that stated: "[One of MicroUnity's employees] had studied our competitors' activities from Microprocessor report and the Web. He noted that their publicized business plans were remarkably similar to ours, based upon addressing multimedia applications by adding DSP capability to their processors." The email continues, "Philips, for example, is developing a new processor core with VLIW architecture; specialized operations are being added for video compression and communications. He felt, in particular, that Intel could pose a threat

by adding DSP functions slowly, step by step. He had also examined DEC, IBM and Intel.” Intel was developing its MMX instruction set during 1995, which uses dynamic partitioning of the execution unit to perform parallel processing. Despite the fact that these business plans were “remarkably similar” to MicroUnity’s, none of these references made it into the patent applications. MicroUnity failed to disclose these references to the USPTO during the prosecution of the ’840 Patent.

50. Upon information and belief, Moussouris and Hansen knew of Intel’s MMX instruction set extensions prior to the issue date of the ’840 Patent. Moussouris and Hansen violated their duty of candor by withholding this information from the USPTO.

51. Upon information and belief, Hansen knew of the Sun UltraSPARC multimedia instruction set extensions and the HP PA-RISC multimedia instruction set extensions on or before November 7, 1995. Upon information and belief, on November 7, 1995, Hansen responded to questions on Usenet, an internet bulletin board service, regarding a presentation given by Moussouris and Hansen on the operation of the MicroUnity media processor. A questioner on the Usenet board made the following statement and question: “The title of the slide and the accompanying diagram indicate that these instructions operate simultaneously on many packed data items within their operands. (Sometimes called ‘multigauge.’ Much like the PA-RISC and UltraSPARC multimedia extensions.) The slide indicates that the size of the sub-register data items can be from 1 to 64 bits. How is the size specified?” Hansen responded via Usenet, stating “The size of the data is specified as part of the operation code of the instruction.”

52. On information and belief, Hansen read and understood the references to the PA-RISC and UltraSPARC multimedia extensions, and understood that “these instructions operate simultaneously on many packed data items within their operands.” The multimedia extensions to

the PA-RISC and UltraSPARC processors were material to the prosecution of the '840, '061, and '318 Patents.

53. The multimedia extensions to the PA-RISC and UltraSPARC processors perform dynamic partitioning of media data that is narrower than the data path for parallel processing, and therefore are material to the patentability of the applications associated with the '840, '061, and '318 Patents. Moussouris and Hansen violated their duty of candor by withholding information on the PA-RISC and UltraSPARC processors from the USPTO.

54. Despite the availability of references that disclosed dynamic partitioning for parallel processing, and the knowledge of the named inventors concerning these references, Moussouris and Hansen withheld these references from the Patent Office in violation of their duty of candor. This intentional withholding of material references constitutes inequitable conduct and renders the '840 Patent unenforceable. The '287 Patent is a descendent of the '840 Patent and therefore is also unenforceable due to inequitable conduct by the named inventors.

#### Improper Claim of Priority

55. The '287 Patent indirectly claims priority to the '840 Patent through U.S. Patent No. 6,295,599 ("the '599 Patent"). The application that issued as the '599 patent never included a claim of priority to the '840 Patent. It was not until almost two years after the '599 Patent issued and more than four years after the application was filed that one of MicroUnity's patent attorneys, Kenneth Cage, improperly filed a certificate of correction pursuant to 35 U.S.C. § 255 purportedly altering the claim of priority in the '599 Patent to include a claim of priority to the '840 Patent.

56. It is clear that the named inventors Moussouris and Hansen did not originally intend to claim that U.S. Patent Nos. 6,643,765 ("the '765 Patent"), 6,725,356 ("the '356

Patent”), and the ’599 Patent were entitled to priority of U.S. Patent No. 5,822,603 (“the ’603 Patent”) and the ’840 Patent. For example, in each of these applications, Moussouris and Hansen specifically chose to state that that the ’840 Patent was “related” rather than make a claim of priority. Additionally, the ’765 and ’356 Patents as originally filed (as well as the ’599 Patent) were directed to systems for improving the performance of general purpose processors by expanding at least one source operand to a width greater than the width of either the general purpose register or data path width. Such a system is not disclosed in the ’603 or the ’840 patent applications. Indeed, Moussouris and Hansen clearly distinguished between the inventions covered by the ’765 and the ’356 Patents and the inventions covered by the earlier ’840 and ’603 Patents. For example, the “Background of the Invention” section of the ’765, ’356, and ’599 Patent applications specifically described the ’603 and ’840 patents as adding classes of instructions that “use the contents of general purpose registers as data path sources, partition the operands into symbols of a specified size, perform operations in parallel, concatenate the results and place the concatenated results into a general-purpose register.” The “Background of the Invention” section of the ’765, ’356, and ’599 patent applications went on to state that while the “foregoing patents offered significant improvements . . . other improvements are possible.”

57. In March 2003, some three years after it filed the applications for the ’765 and ’356 patent, Moussouris and Hansen decided to change the direction of the ’765 and ’356 patent applications. Moussouris and Hansen, through their patent attorney Lawrence Cullen, submitted substitute specifications and submitted claims that cover systems disclosed by the earlier ’603 and ’840 patent applications, instead of claims that cover systems having “at least one source operand to a width greater than the width of either the general purpose register or data path width.” However, PCT application WO 97/07450, which is a counterpart to the ’840 Patent

application, was published in February 1997, more than one year before the earliest priority date that claims of the '765 and '356 Patents could be entitled to, and thus constituted a statutory bar under section 102(b) of the Patent Law. This PCT publication thus invalidates the claims of the '765 and '356 Patents to the same extent that MicroUnity now claims they are entitled to priority of the '840 Patent. Certificates of Correction may only be used to correct “a mistake of a clerical or typographical nature, or of minor character” if the applicant can make a “showing ... that such mistake occurred in good faith.” 35 U.S.C. § 255. On September 23, 2003, Kenneth Cage, a patent attorney representing MicroUnity, signed a request for a Certificate of Correction on the '599 Patent, which stated that the changes in the Certificate of Correction were “of a clerical nature and/or of a mistake of minor character that occurred in good faith.” This statement was false and fraudulent – the priority changes requested in the Certificate of Correction were not clerical or minor in nature.

58. Samsung therefore alleges that Moussouris and Hansen, through their patent attorneys Kenneth Cage and Lawrence Cullen, with the intent to deceive the Patent Office, knowingly followed improper procedures to alter the '599 Patent to claim priority to the '840 Patent, rendering the patents claiming priority to the '840 Patent by way of the '599 Patent – including the '287 Patent – unenforceable for inequitable conduct.

#### **RESERVATION OF ADDITIONAL DEFENSES**

Samsung reserves all defenses under the Patent Laws of the United States, Title 35 of the United States Code, the Federal Rules of Civil Procedure, and any other defenses, at law or in equity, that may now exist or come to light in the future based on discovery and further investigation into MicroUnity's allegations.

## **COUNTERCLAIMS**

Defendants Samsung Electronics Co., Ltd.; Samsung Semiconductor, Inc.; and Samsung Telecommunications America, LLC (collectively, “Samsung”) allege the following counterclaims against Plaintiff MicroUnity Systems Engineering, Inc. (“MicroUnity”):

### **PARTIES**

1. Counterclaim plaintiff Samsung Electronics Co., Ltd. (“SEC”) is a Korean corporation with a principal place of business at 37<sup>th</sup> Floor, Samsung Electronics Building, 1320-10, Seocho2-dong, Seocho-gu, Seoul, Korea 137-857.

2. Counterclaim plaintiff Samsung Semiconductor, Inc. (“SSI”) is a corporation organized under the laws of the state of California, with its principal place of business at 3655 North First Street., San Jose, California 95134.

3. Counterclaim plaintiff Samsung Telecommunications America, LLC (“STA”) is a corporation organized under the laws of Delaware with its principal place of business at 1301 East Lookout Drive, Richardson, Texas 75082.

4. On information and belief, counterclaim defendant MicroUnity is a California corporation with its principal place of business at 376 Martin Avenue, Santa Clara, California 95050.

### **JURISDICTION AND VENUE**

5. Samsung’s counterclaims arise under the Patent Laws of the United States, Title 35 of the United States Code and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. Jurisdiction is proper in this court pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

6. By virtue of the Complaint and MicroUnity’s allegations against Samsung, an actual case or controversy exists between MicroUnity and Samsung as to the non-infringement

and/or invalidity of the claims of U.S. Patent Nos. 5,742,840 (“the ’840 patent”) and 7,730,287 (“the ’287 patent”); collectively, the “patents-in-suit”).

7. A judicial declaration is necessary and appropriate at this time in order that Samsung may ascertain its rights regarding the patents-in-suit.

8. To the extent this action remains in this judicial district, venue is appropriate because MicroUnity consented to this venue by filing its Complaint here, and the present counterclaims are in response to the allegations contained in the Complaint.

### **COUNT I**

#### **DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF U.S. PATENT NO. 5,742,840**

9. Samsung refers to and incorporates herein the allegations of paragraphs 1-8 of the counterclaims above.

10. Samsung has not infringed and does not infringe, directly or indirectly, any valid and enforceable claim of the ’840 patent, either literally or under the doctrine of equivalents.

### **COUNT II**

#### **DECLARATORY JUDGMENT OF INVALIDITY OF U.S. PATENT NO. 5,742,840**

11. Samsung refers to and incorporates herein the allegations of paragraphs 1-10 of the counterclaims above.

12. The claims of the ’840 patent are invalid for failure to meet the conditions for patentability of the Patent Laws of the United States, Title 35 of the United States Code, including, but not limited to, 35 U.S.C. §§ 101, 102, 103, and/or 112.



**COUNT III**

**DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF  
U.S. PATENT NO. 7,730,287**

13. Samsung refers to and incorporates herein the allegations of paragraphs 1-12 of the counterclaims above.

14. Samsung has not infringed and does not infringe, directly or indirectly, any valid and enforceable claim of the '287 patent, either literally or under the doctrine of equivalents.

**COUNT IV**

**DECLARATORY JUDGMENT OF INVALIDITY OF U.S. PATENT NO. 7,730,287**

15. Samsung refers to and incorporates herein the allegations of paragraphs 1-14 of the counterclaims above.

16. The claims of the '287 patent are invalid for failure to meet the conditions for patentability of the Patent Laws of the United States, Title 35 of the United States Code, including, but not limited to, 35 U.S.C. §§ 101, 102, 103, and/or 112.

**DEMAND FOR JURY TRIAL**

17. Samsung hereby demands that all issues raised in its counterclaims be determined by jury.

**PRAYER FOR RELIEF**

Samsung requests a judgment that:

(a) MicroUnity is not entitled to any relief, whether legal or equitable, from its suit against Samsung;

(b) Samsung has not infringed any valid and enforceable claim of the patents-in-suit, either directly or indirectly;

(c) the claims of the patents-in-suit are invalid;

(d) finds this case exceptional under 35 U.S.C. § 285 and awards Samsung its reasonable costs of suit and attorneys' fees; and

(e) awards Samsung other and further relief as this court may deem just and proper.

DATED: August 11, 2010

Respectfully submitted,

**POTTER MINTON, P.C.**

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**ATTORNEYS FOR DEFENDANTS  
AND COUNTERCLAIM PLAINTIFFS  
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SAMSUNG SEMICONDUCTOR, INC.;**

**AND SAMSUNG  
TELECOMMUNICATIONS AMERICA,  
LLC**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on August 11, 2010. Any other counsel of record will be served by First Class U.S. mail on this same date.

*/s/ Michael E. Jones* \_\_\_\_\_