

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

MICROUNITY SYSTEMS ENGINEERING, )  
INC., )

Plaintiff, )

v. )

(1) ACER INC., (2) ACER AMERICA )  
CORPORATION, (3) APPLE, INC., (4) )  
AT&T INC., (5) AT&T MOBILITY )  
LLC, (6) CELLCO PARTNERSHIP, (7) )  
EXEDEA, INC., (8) GOOGLE INC., (9) HTC )  
CORPORATION, (10) HTC AMERICA, )  
INC., (11) LG ELECTRONICS, INC., (12) )  
LG ELECTRONICS MOBILECOMM U.S.A., )  
INC., (13) MOTOROLA, INC., (14) NOKIA )  
CORPORATION, (15) NOKIA INC., (16) )  
PALM, INC., (17) QUALCOMM INC., (18) )  
SAMSUNG ELECTRONICS CO., (19) )  
SAMSUNG, SEMICONDUCTOR INC., (20) )  
SAMSUNG TELECOMMUNICATIONS )  
AMERICA, LLC, (21) SPRINT )  
NEXTEL CORPORATION, (22) TEXAS )  
INSTRUMENTS INC., )

Defendants. )

Case No. 2:10-CV-00185 (TJW)

JURY TRIAL DEMANDED

**SPRINT NEXTEL CORPORATION’S ANSWER AND AFFIRMATIVE DEFENSES, TO  
MICROUNITY SYSTEMS ENGINEERING, INC.’S COMPLAINT**

Defendant Sprint Nextel Corporation (“SNC”), through its counsel, respectfully responds to the Complaint for Patent Infringement ("Complaint") filed by Plaintiff, MicroUnity Systems Engineering, Inc. (“Plaintiff”) as follows:

**I. THE PARTIES**

1. Answering Paragraph 1, SNC is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies them.

2. Answering Paragraph 2, Paragraph 2 does not contain any allegations that are directed at SNC, and therefore requires no answer.

3. Answering Paragraph 3, SNC is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies them.

4. Answering Paragraphs 4, Paragraph 4 does not contain any allegations that are directed at SNC, and therefore requires no answer.

5. Answering Paragraph 5, Paragraph 5 does not contain any allegations that are directed at SNC, and therefore requires no answer.

6. Answering Paragraph 6, Paragraph 6 does not contain any allegations that are directed at SNC, and therefore requires no answer.

7. Answering Paragraph 7, Paragraph 7 does not contain any allegations that are directed at SNC, and therefore requires no answer.

8. Answering Paragraph 8, Paragraph 8 does not contain any allegations that are directed at SNC, and therefore requires no answer.

9. Answering Paragraph 9, Paragraph 9 does not contain any allegations that are directed at SNC, and therefore requires no answer.

10. Answering Paragraph 10, Paragraph 10 does not contain any allegations that are directed at SNC, and therefore requires no answer.

11. Answering Paragraph 11, Paragraph 11 does not contain any allegations that are directed at SNC, and therefore requires no answer.

12. Answering Paragraph 12, Paragraph 12 does not contain any allegations that are directed at SNC, and therefore requires no answer.

13. Answering Paragraph 13, Paragraph 13 does not contain any allegations that are

directed at SNC, and therefore requires no answer.

14. Answering Paragraph 14, Paragraph 14 does not contain any allegations that are directed at SNC, and therefore requires no answer.

15. Answering Paragraph 15, SNC admits that it is a corporation duly organized and existing under the laws of the state of Kansas with its principal place of business in Overland Park, KS 66251. SNC denies all other allegations contained in paragraph 15.

16. Answering Paragraph 16, Paragraph 16 does not contain any allegations that are directed at SNC, and therefore requires no answer.

## **II. JURISDICTION AND VENUE**

17. Answering Paragraph 17, SNC admits that the Complaint purports to base federal jurisdiction under 28 U.S.C. §§ 1331 and 1338(a). SNC admits that the Complaint purports to allege patent infringement under 35 U.S.C. §§ 1 et seq. SNC denies that the Complaint properly states such claims. SNC denies any wrongdoing or infringement and specifically denies that it has committed acts of direct or indirect infringement within this judicial district or anywhere else. SNC admits that Plaintiff purports to base venue under 28 U.S.C. §§ 1391(b), (c) and 1400(b), but denies that this District is the most convenient venue for adjudication of the claims raised by Plaintiff in this action. SNC is without sufficient knowledge or information regarding the allegations of Paragraph 17 directed at other Defendants and therefore denies them. Otherwise, this paragraph contains conclusions of law to which no answer is required.

18. Answering Paragraph 18, SNC admits that this case involves some of the same patents involved in prior actions, *MicroUnity Systems Engineering, Inc. v. Intel Corporation and Dell, Inc.*, C.A. No. 2-04CV-120; *MicroUnity Systems Engineering, Inc. v. Sony Computer Entertainment America Inc.*, C.A. No. 2-05CV-505; *MicroUnity Systems Engineering, Inc. v. Advanced Micro Devices, Inc.*, C.A. No. 2-06CV-486; and pending action *MicroUnity Systems*

*Engineering, Inc. v. Acer Inc., et al.*, Case No. 02:10-cv-91, which were filed in the United States District Court for the Eastern District of Texas, Marshall Division. Otherwise, this paragraph contains conclusions of law to which no answer is required.

### **III. COUNT ONE - INFRINGEMENT OF THE '840 PATENT**

19. Answering Paragraph 19, SNC admits that United States Patent No. 5,742,840 (“the ‘840 patent”) is attached to Plaintiff’s Complaint as Exhibit C and that on its face it is titled, “General Purpose, Multiple Precision Parallel Operation, Programmable Media Processor.” SNC further admits that the face of the ‘840 patent states that it was issued on April 21, 1998. SNC denies that the ‘840 patent was duly and legally issued. SNC is without knowledge or information sufficient to form a belief as to remaining allegations contained in this paragraph and, therefore, denies these allegations.

20. Answering Paragraph 20, SNC admits that an Ex Parte Reexamination Certificate for the ‘840 patent is attached to Plaintiff’s Complaint as Exhibit C1 and that on its face states that the patentability of claim 11 is confirmed, claim 1 is determined to be patentable as amended, claims 2-6, 8, and 9 are dependent on an amended claim and are determined to be patentable, and claims 7 and 10 are cancelled. SNC further admits that the face of the Ex Parte Reexamination Certificate for the ‘840 patent states that it was issued on May 4, 2010. SNC denies that the Ex Parte Reexamination Certificate for the ‘840 patent was properly issued. SNC denies that claim 1, as amended, is substantially identical to the originally-issued claim 1. Otherwise, this paragraph contains conclusions of law to which no answer is required.

21. Answering Paragraph 21, SNC is without sufficient knowledge or information regarding the allegations contained in this paragraph and therefore denies them.

22. Answering Paragraph 22, SNC is without sufficient knowledge or information regarding the allegations contained in this paragraph and therefore denies them.

23. Answering Paragraph 23, SNC denies all allegations directed to SNC and specifically denies any wrongdoing or infringement. SNC is without sufficient knowledge or information regarding the remaining allegations contained in this paragraph and therefore denies them.

24. Answering Paragraph 24, SNC denies each and every allegation contained therein directed at SNC, and specifically denies any wrongdoing or infringement of the '840 patent. SNC further denies that Plaintiff is entitled to any relief from SNC whatsoever. SNC is without sufficient knowledge or information regarding the allegations of Paragraph 24 directed at other Defendants, and therefore denies them.

25. Answering Paragraph 25, Paragraph 25 does not contain any allegations that are directed at SNC, and therefore requires no answer.

#### **IV. COUNT TWO - INFRINGEMENT OF THE '287 PATENT**

26. Answering Paragraph 26, SNC admits that United States Patent No. 7,730,287 ("the '287 patent") is attached to Plaintiff's Complaint as Exhibit U and that on its face it is titled, "Method and Software for Group Floating-Point Arithmetic Operations." SNC further admits that the face of the '287 patent states that it was issued on June 1, 2010. SNC denies that the '287 patent was duly and legally issued. SNC is without knowledge or information sufficient to form a belief as to remaining allegations contained in this paragraph and, therefore, denies these allegations.

27. Answering Paragraph 27, SNC is without sufficient knowledge or information regarding the allegations contained in this paragraph and therefore denies them.

28. Answering Paragraph 28, SNC is without sufficient knowledge or information regarding the allegations contained in this paragraph and therefore denies them.

29. Answering Paragraph 29, SNC is without sufficient knowledge or information regarding the allegations contained in this paragraph and therefore denies them.

30. Answering Paragraph 30, SNC is without sufficient knowledge or information regarding the allegations contained in this paragraph and therefore denies them.

31. Answering Paragraph 31, Paragraph 31 does not contain any allegations that are directed at SNC, and therefore requires no answer.

**V. DEMAND FOR JURY TRIAL**

32. Paragraph 32 demands a jury trial, and therefore requires no answer.

**VI. AFFIRMATIVE DEFENSES**

33. Without altering the burdens of proof, SNC asserts the following affirmative and other defenses. SNC reserves the right to amend its answer with additional defenses as further information is obtained.

**FIRST AFFIRMATIVE DEFENSE**

**[Lack of Personal Jurisdiction]**

34. The Court lacks personal jurisdiction over SNC.

**SECOND AFFIRMATIVE DEFENSE**

**[NON-INFRINGEMENT]**

35. SNC alleges that it does not infringe and has not infringed, directly or indirectly, literally or by the doctrine of equivalents, any valid and enforceable claim of any patent-in-suit asserted against SNC, including United States Patent No. 5,742,840 (“the ‘840 patent”).

**THIRD AFFIRMATIVE DEFENSE**

**[INVALIDITY]**

36. The claims of the ‘840 patent are invalid, unenforceable and/or void for failure to satisfy one of more of the requirements for patentability set forth in Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 41.

37. The claims of the ‘840 patent are invalid, unenforceable and/or void for failure to

satisfy one of more of the requirements for patentability set forth in Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 101.

38. The claims of the '840 patent are invalid, unenforceable and/or void for failure to satisfy one of more of the requirements for patentability set forth in Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 102.

39. The claims of the '840 patent are invalid, unenforceable and/or void for failure to satisfy one of more of the requirements for patentability set forth in Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 103.

40. The claims of the '840 patent are invalid, unenforceable and/or void for failure to satisfy one of more of the requirements for patentability set forth in Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 112.

41. The claims of the '840 patent are invalid, unenforceable and/or void for failure to satisfy one of more of the requirements for patentability set forth in Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 116.

42. The claims of the '840 patent are invalid, unenforceable and/or void for failure to satisfy one of more of the requirements for patentability set forth in Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 282.

#### **FOURTH AFFIRMATIVE DEFENSE**

##### **[LIMITATIONS ON DAMAGES AND RECOVERY]**

43. Pursuant to the requirements of 35 U.S.C. §§ 286-288, Plaintiff's ability to recover damages and/or costs is limited. Without limitations, SNC alleges on information and belief that any claim for damages for patent infringement by Plaintiff is limited by 35 U.S.C. § 287 to only those damages occurring after proper and sufficient notice of infringement to SNC.

**FIFTH AFFIRMATIVE DEFENSE**

**[PROSECUTION HISTORY ESTOPPEL]**

44. Plaintiff's claims of patent infringement are barred in whole or in part by the doctrine of prosecution history estoppel.

**SIXTH AFFIRMATIVE DEFENSE**

**[28 U.S.C. § 1498]**

45. Plaintiff's claims of patent infringement are barred in whole or in part by 28 U.S.C. § 1498 to the extent they encompass claims for products sold to and/or designed for the United States.

**SEVENTH AFFIRMATIVE DEFENSE**

**[License/Implied License/Patent Exhaustion]**

46. Plaintiff's claims may be barred, in whole or in part, by one or more express or implied licenses granted for the asserted patents and/or by the doctrine of patent exhaustion.

**EIGHTH AFFIRMATIVE DEFENSE**

**[Equitable Defenses/Laches/Equitable Estoppel]**

47. Plaintiff's claims are barred by equitable doctrines, including the doctrine of laches and equitable estoppel.

**NINTH AFFIRMATIVE DEFENSE**

**[INTERVENING RIGHTS]**

48. Plaintiff's claims for damages and relief are barred, in part, by the doctrine of intervening rights, including that set forth in 35 U.S.C. §§ 307 and 252 (as referenced in 35 U.S.C. § 307).

WHEREFORE, SNC denies that any of its products, services, or processes infringes any claim of the '840 patent identified in the Complaint and further denies that Plaintiff is entitled to any judgment against SNC whatsoever. SNC asks that the Complaint be dismissed with prejudice, that



judgment be entered for SNC, and that SNC be awarded attorneys' fees incurred in defending against the Complaint, together with such other relief the Court deems appropriate.

WHEREFORE, SNC prays for relief as follows:

A. That the '840 patent, and every claim thereof, be declared not infringed, invalid, and unenforceable.

B. That Plaintiff takes nothing by its Complaint and that the Complaint be dismissed with prejudice.

C. That, pursuant to 35 U.S.C. § 285, Fed. R. Civ. P. 11, and/or other applicable authority, the Court finds that Plaintiff's conduct in commencing and pursuing these actions renders this an exceptional case and that SNC be awarded its attorneys' fees incurred in connection with this action; and

D. That SNC be awarded such other relief as the Court shall deem just and reasonable.

DATED August 11, 2010.

Respectfully submitted,

*/s/ Robert W. Weber*

Robert W. Weber

Texas State Bar No. 21044800

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**ATTORNEYS FOR DEFENDANT,  
SPRINT NEXTEL CORPORATION**

**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who 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 this 11<sup>th</sup> day of August, 2010.

*/s/ Robert W. Weber* \_\_\_\_\_

Robert W. Weber