

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

MICROUNITY SYSTEMS ENGINEERING, INC.,
a California corporation,)
Plaintiff,)
v.)

(1) ACER INC., a Republic of China corporation,)
(2) ACER AMERICA CORPORATION, a California)
corporation, (3) APPLE, INC., a California)
corporation, (4) AT&T INC., a Delaware corporation,)
(5) AT&T MOBILITY LLC, a Delaware limited)
liability company, (6) CELLCO PARTNERSHIP, a)
Delaware partnership, (7) EXEDEA, INC., a Texas)
corporation, (8) GOOGLE INC., a Delaware)
corporation, (9) HTC CORPORATION, a Republic)
of China corporation, (10) HTC AMERICA, INC., a)
Texas corporation, (11) LG Electronics, Inc., a)
Korean limited company, (12) LG Electronics)
Mobilecomm U.S.A., Inc., a California corporation,)
(13) MOTOROLA, INC., a Delaware corporation,)
(14) NOKIA CORPORATION, a Finnish)
corporation, (15) NOKIA INC., a Delaware)
corporation, (16) PALM, INC., a Delaware)
corporation, (17) QUALCOMM INC., a Delaware)
corporation, (18) SAMSUNG ELECTRONICS CO.,)
LTD., a Korean limited company, (19) SAMSUNG,)
SEMICONDUCTOR INC., a California corporation,)
(20) SAMSUNG TELECOMMUNICATIONS)
AMERICA, LLC, a Delaware limited liability)
company, (21) SPRINT NEXTEL CORPORATION,)
a Kansas corporation, (22) TEXAS INSTRUMENTS)
INC., a Delaware corporation,)

Case No. 2:10-cv-00185-TJW-CE

JURY TRIAL DEMANDED

Defendants.)
)
)

**LG ELECTRONICS, INC. AND
LG ELECTRONICS MOBILECOMM U.S.A., INC.'S ANSWER,
AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS TO
COMPLAINT FOR PATENT INFRINGEMENT**

ANSWER

Defendants/Counterclaim Plaintiffs LG Electronics, Inc. and LG Electronics Mobilecomm U.S.A., Inc. (collectively “LGE”), by and through their attorneys, hereby answer the Complaint for Patent Infringement (the “Complaint”) of Plaintiff/Counterclaim Defendant MicroUnity Systems Engineering, Inc. (“MicroUnity”), as follows:

THE PARTIES

1. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 1 of the Complaint, and, therefore, denies the same.

2. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 2 of the Complaint, and, therefore, denies the same.

3. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 3 of the Complaint, and, therefore, denies the same.

4. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 4 of the Complaint, and, therefore, denies the same.

5. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 5 of the Complaint, and, therefore, denies the same.

6. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 6 of the Complaint, and, therefore, denies the same.

7. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 7 of the Complaint, and, therefore, denies the same.

8. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 8 of the Complaint, and, therefore, denies the same.

9. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 9 of the Complaint, and, therefore, denies the same.

10. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 10 of the Complaint, and, therefore, denies the same.

11. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 11 of the Complaint, and, therefore, denies the same.

12. LGE admits that LG Electronics, Inc. is a company organized and existing under the laws of South Korea. LGE further admits that LGE is a wholly-owned subsidiary of LG Electronics, Inc., and that LGE is a corporation organized under the laws of the state of California with its principal place of business at 10101 Old Grove Road, San Diego, CA 92131. LGE admits that it has sold and offered for sale the eXpo mobile device in the United States, but

denies any wrongdoing. Unless otherwise specifically admitted herein, LGE denies each and every allegation in paragraph 12 of the Complaint.

13. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 13 of the Complaint, and, therefore, denies the same.

14. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 14 of the Complaint, and, therefore, denies the same. To the extent that paragraph 14 purports to be directed to any LGE product, LGE denies any wrongdoing.

15. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 15 of the Complaint, and, therefore, denies the same. To the extent that paragraph 15 purports to be directed to any LGE product, LGE denies any wrongdoing.

16. LGE admits that it has sold the LG eXpo mobile device to AT&T. To the extent that paragraph 16 purports to be directed to the LGE eXpo mobile device or any other LGE product, LGE denies infringement and denies any wrongdoing. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in paragraph 16 of the Complaint, and, therefore, denies the same.

RESPONSE TO JURISDICTION AND VENUE

17. To the extent that the allegations of Paragraph 17 are made against LGE, LGE admits that this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States. LGE admits that venue is

proper in this district under 28 U.S.C. §§ 1391(b) and (c) on the basis that LGE has conducted business in this district. LGE denies all other allegations in this paragraph, and LGE further denies any wrongdoing.

18. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 18 of the Complaint, and, therefore, denies the same.

RESPONSE TO ALLEGED INFRINGEMENT OF U.S. PATENT NO. 5,742,840 C1

19. LGE admits that U.S. Patent No. 5,742,840 (“the ‘840 patent”) is entitled on its face “General Purpose, Multiple Precision Parallel Operation, Programmable Media Processor” and that it has a date of issue on its face of April 21, 1998. LGE denies each and every remaining allegation of paragraph 19 of the Complaint.

20. LGE admits that the ‘840 patent has been the subject of a reexamination proceeding and that a Reexamination Certificate issued on May 4, 2010, but denies that any patent claim is valid. LGE denies each and every remaining allegation of paragraph 20.

21. LGE denies that Qualcomm’s Snapdragon processors infringe any claim of the ‘840 patent, and denies any liability. To the extent that paragraph 21 purports to be directed to any other processor used in an LGE product, LGE denies that such LGE product infringes any claim of the ‘840 patent and denies any liability. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 21 of the Complaint, and, therefore, denies the same.

22. LGE denies that the eXpo mobile device infringes any claim of the ‘840 patent, and denies any liability. To the extent paragraph 22 purports to be directed to any other LGE

product, LGE denies infringement and denies any liability. To the extent that paragraph 22 is directed to entities other than LGE, LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 22 of the Complaint, and, therefore, denies the same.

23. To the extent the allegations of paragraph 23 purport to be directed to any LGE product, LGE denies infringement and denies any liability. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 23 of the Complaint, and, therefore, denies the same.

24. LGE denies each and every allegation in paragraph 24 of the Complaint.

25. LGE denies that any claim of the '840 patent is valid. LGE denies that MicroUnity is entitled to enhanced damages and attorneys' fees. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth in paragraph 25 of the Complaint, and, therefore, denies the same.

RESPONSE TO ALLEGED INFRINGEMENT OF U.S. PATENT NO. 7,730,287 B2

26. LGE admits that U.S. Patent No. 7,730,287 ("the '287 patent") is entitled on its face "Method and Software for Group Floating-Point Arithmetic Operations" and that it has a date of issue on its face of June 1, 2010. LGE denies each and every remaining allegation of paragraph 26 of the Complaint.

27. To the extent that paragraph 27 purports to be directed to a processor used in an LGE product, LGE denies that such LGE product infringes any claim of the '287 patent and denies any liability. LGE is without knowledge or information sufficient to form a belief as to

the truth or falsity of the remaining allegations set forth in paragraph 27 of the Complaint, and, therefore, denies the same.

28. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 28 of the Complaint, and, therefore, denies the same.

29. To the extent paragraph 29 purports to be directed to an LGE product, LGE denies that such LGE product infringes any claim of the '287 patent and denies any liability. LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 29 of the Complaint, and, therefore, denies the same.

30. To the extent paragraph 30 purports to be directed to an LGE product, LGE denies each and every allegation of paragraph 30. Otherwise, LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 30 of the Complaint, and, therefore, denies the same.

31. No response is necessary as to the reservation of rights in paragraph 31. LGE denies that MicroUnity is entitled to increased damages and attorneys' fees.

JURY DEMAND

32. LGE demands a trial by jury on all issues so triable.

RESPONSE TO PRAYER FOR RELIEF

The allegations in this paragraph are directed in the nature of a prayer. Although no answer is required, LGE responds to the individual requests for relief as follows:

(a) With respect to the allegations against LGE, LGE denies that MicroUnity is entitled to the requested judgment, and denies any and all liability for MicroUnity's claims.

With regard to the remaining Defendants, LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph (a) of the Prayer for Relief, and therefore, denies the same.

(b) With respect to the allegations against LGE, LGE denies that MicroUnity is entitled to any damages and further denies each and every allegation in paragraph (b) of the Prayer for Relief. With regard to the remaining Defendants, LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph (b) of the Prayer for Relief, and therefore, denies the same.

(c) With respect to the allegations against LGE, LGE denies that MicroUnity is entitled to any injunctive relief, permanent or otherwise, and further denies each and every allegation in paragraph (c) of the Prayer for Relief. With regard to the remaining Defendants, LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph (c) of the Prayer for Relief, and therefore, denies the same.

(d) With respect to the allegations against LGE, LGE denies that MicroUnity is entitled to an award of attorney's fees. With regard to the remaining Defendants, LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph (d) of the Prayer for Relief, and therefore, denies the same.

(e) With respect to the allegations against LGE, LGE denies that MicroUnity is entitled to costs or any other relief. With regard to the remaining Defendants, LGE is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph (e) of the Prayer for Relief, and therefore, denies the same.

DEFENSES AND AFFIRMATIVE DEFENSES

Failure to State a Claim Upon Which Relief can be Granted

1. With respect to any and all allegations against LGE, the Complaint fails to state a claim upon which relief may be granted.

Non-Infringement

2. LGE has not infringed and does not infringe any of the claims of the '840 patent or the '287 patent, whether literally, under the doctrine of equivalents, directly, contributorily, by inducement, or in any other manner.

Invalidity

3. The claims of the '840 patent and the '287 patent are invalid for failing to comply with the conditions and requirements for patentability as set forth in United States Patent Laws, Title 35 U.S.C., including specifically §§ 41, 101, 102, 103, 112, 116, 185, and/or 282 and the rules, regulations, and laws pertaining thereto.

Prosecution History Estoppel

4. Because of proceedings in the United States Patent and Trademark Office (USPTO) during the prosecution and/or reexamination of the applications which resulted in the '840 patent and the '287 patent, MicroUnity is stopped from asserting a construction of the '840 patent and/or the '287 patent that would cause any valid claim thereof to cover or include any products that are or have been manufactured, used, sold, or offered for sale or imported by LGE, either literally or under the doctrine of equivalents.

Improper Expansion of Claim Scope

5. MicroUnity has improperly and unlawfully enlarged the scope of one or more claims during reexamination, rendering such claims invalid in violation of 35 U.S.C. § 305.

Bad Faith

6. On information and belief, MicroUnity has brought this suit in bad faith making it an exceptional case, thereby entitling LGE to its costs and attorneys fees pursuant to 35 U.S.C. § 285.

No Irreparable Harm / Adequate Remedy at Law

7. MicroUnity is not entitled to injunctive relief against LGE because any alleged injury to LGE would not be immediate or irreparable, and MicroUnity would have an adequate remedy at law.

Laches

8. On information and belief, MicroUnity's attempts to enforce the '840 and '287 patents against LGE are barred by laches because of unreasonable delay in bringing suit and the resulting prejudice to LGE.

Equitable Estoppel and Waiver

9. MicroUnity is barred by the doctrines of waiver and equitable estoppel from enforcing the '840 and '287 patents.

Intervening Rights

10. On information and belief, MicroUnity is precluded from recovering damages for any finding of infringement of any valid claim of the '840 patent or the '287 patent on the ground that LGE has equitable intervening rights in the '840 and '287 patents and/or absolute intervening rights in the '840 and '287 patents under 35 U.S.C. §§ 252 and/or 307(b).

Unclean Hands

11. Some or all of MicroUnity's claims are barred by the doctrine of unclean hands.

Implied License

12. Some or all of MicroUnity’s claims are barred by the doctrine of implied license.

Patent Exhaustion Doctrine

13. Some or all of MicroUnity’s claims are barred by the patent exhaustion doctrine.

Patent Misuse

14. Some or all of MicroUnity’s claims are barred by the doctrine of patent misuse.

Statute of Limitations and Marking/Notice

15. MicroUnity’s claim for recovery is limited by 35 U.S.C. §§ 286 and 287.

Inequitable Conduct

16. The strong public interest in properly issued patents is best served when the United States Patent and Trademark Office (the “USPTO”) evaluates all information material to patentability during prosecution. Each individual involved in the filing and prosecuting of a patent application owes a duty of good faith, candor, and honesty to that Office. That duty places a substantial burden on those involved in preparing a patent application. Intentionally making false statements to the USPTO or intentionally failing to disclose information material to the patentability of an application will render the entire patent unenforceable.

17. LGE is informed and believes that during the prosecution of the applications leading to the ‘840, ‘061, ‘318, ‘356, ‘131, ‘217, ‘708, ‘367, ‘366, ‘806, ‘972, and ‘973 Patents (the “Asserted Patents of the ‘840 Patent Family”), the named inventors, John Moussouris and Craig Hansen, and/or the MicroUnity attorneys who prosecuted these patents, Kenneth Cage in particular, failed to comply with their obligations under 37 C.F.R. § 1.56 and failed to discharge their duty of candor to the Patent Office during the prosecution of the applications leading to the issuance of these patents. Moussouris, Hansen, and/or Cage with intent to deceive the Patent

Office examiner, knowingly and intentionally (1) withheld material information from the USPTO during prosecution, and (2) improperly attempted to change the priority dates of certain patents. Because Moussouris, Hansen, and/or Cage failed to comply with the duty of candor, the Asserted Patents of the '840 Patent Family are unenforceable.

Withholding Material Information from the USPTO

18. Upon information and belief, Moussouris and Hansen were aware of prior art references and the sale of prior art processors or systems that they knew to be material to the prosecution of patent applications leading to the '840, '061, and '318 Patents, yet knowingly and intentionally withheld that information from the USPTO.

Hewlett Packard References

19. Upon information and belief, prior to the issue date of the '840, '061, and '318 Patents, MicroUnity was involved in a technology collaboration with Hewlett Packard ("HP") and several of their engineers, including Ruby Lee, Jerry Huck, and Michael Mahon.

20. HP is a company that designs and manufactures (among other things) microprocessors and computer systems.

21. Upon information and belief, no later than January 1994, Hewlett Packard offered for sale the PA 7100LC microprocessor, part of the HP PA-RISC family of microprocessors. The PA 7100LC included multimedia extensions to the microprocessor instruction set that implemented dynamic partitioning for parallel processing of packed data elements.

22. Upon information and belief, Lee was involved in the design of the PA 7100LC multimedia instruction set extensions, and was also involved in the technology collaboration between MicroUnity and HP.

23. Lee published articles detailing these multimedia extensions to the instruction set and the hardware necessary to implement these extensions. Several of Lee's articles were published prior to August 16, 1995 (the "Lee Articles"), which was the filing date of the patent application that later matured into the '840 Patent. One example is *Accelerating Multimedia with Enhanced Microprocessors*, IEEE Micro, April 1995. Lee also filed at least two patent applications relating to dynamic partitioning for parallel processing that claim a priority date of November, 1993, and are therefore prior art to the MicroUnity '840, '061, and '318 Patents and the other Asserted Patents of the '840 Patent Family. These two patent applications matured into U.S. Patent Nos. 5,636,351 and 5,390,135.

24. 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, '061, and '318 Patents. 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.

25. 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.

26. Despite knowledge of the multimedia extensions and their operation, Moussouris and Hansen intentionally did not disclose the prior art HP microprocessor or Lee Articles during

the prosecution of the '840, '061, and '318 Patents and therefore intentionally failed to disclose to the USPTO all information known to Moussouris and Hansen to be material to patentability.

27. The HP 7100LC microprocessor and the Lee Articles, including the article entitled *Accelerating Multimedia with Enhanced Microprocessors*, were material to the USPTO's examination of the '840, '061, and '318 Patents. During the prosecution of the '840 Patent, Moussouris and Hansen distinguished their alleged invention from the prior art 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. During the prosecution of the '061 Patent, on February 11, 1998 Moussouris and Hansen distinguished their alleged invention from the prior art by arguing that the cited prior art references did not disclose the dynamic partitioning and parallel processing of a plurality of data streams, the width of the data path being equal to or narrower than the data path. The '318 Patent also claimed dynamic partitioning.

28. Upon information and belief, Moussouris and Hansen did not cite any references during the prosecution of the '840, '061, and '318 Patents that disclosed or performed dynamic partitioning for parallel processing, despite the fact they were aware of the materiality of these references.

29. The HP 7100LC microprocessor performed dynamic partitioning of media data that is narrower than the data path for parallel processing. The Lee Articles, including the article entitled *Accelerating Multimedia with Enhanced Microprocessors*, disclosed dynamic partitioning of media data that is narrower than the data path for parallel processing.

30. The materiality of the Lee Articles is further demonstrated by the rejection of claims 1, 2, 7, 10-14, and 22 of the '061 Patent during reexamination based on the Lee Article entitled *Accelerating Multimedia with Enhanced Microprocessors*.

31. Upon information and belief, despite the materiality of the HP prior art processors and publications, including the PA 7100LC microprocessor and the Lee article entitled *Accelerating Multimedia with Enhanced Microprocessors*, 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.

Intel and Philips References

32. Upon information and belief, on August 15, 1995 an email was circulated to the MicroUnity Zeus media processor design team discussing competitive microprocessor products ("MicroUnity Zeus email"). Upon information and belief, Moussouris was copied on the MicroUnity Zeus email. Upon information and belief, on August 16, 1995, the MicroUnity Zeus email was forwarded to Craig Hansen. August 16, 1995 was also the filing date of the patent application that would mature into the '840 Patent.

33. The MicroUnity Zeus email included an update from the MicroUnity marketing group. According to the MicroUnity Zeus email, one of the MicroUnity employees was performing a competitive analysis of other microprocessor companies. The MicroUnity Zeus email noted that the publicized business plans of the competitive microprocessor companies was "remarkably similar" to MicroUnity's plans, in which multimedia capabilities were added to the microprocessor. In particular, the MicroUnity Zeus email noted Intel's plans to add DSP functions to its processors ("Intel's plans") and Philips's plans to include specialized operations for video compression and communications into its new VLIW processor core ("Philips's plans"). Even though the approach taken in these processors was noted in this email to be "remarkably similar," no information regarding Intel's plans or Phillips's plans or any Intel

references or any Philips references were cited during the prosecution of the patent application for the '840, '061, and '318 Patents.

34. Upon information and belief, the MicroUnity Zeus email was referring to Intel's intent to add DSP-like functionality to its processors by including the MMX instruction set, which allowed dynamic partitioning of the execution unit for parallel processing.

35. Upon information and belief, both Moussouris and Hansen read the MicroUnity Zeus email. Upon information and belief, both Moussouris and Hansen were aware of these competing processor architectures, including Intel's plans and Philips's plans, discussed in the MicroUnity Zeus email. Neither Moussouris nor Hansen cited any information regarding Intel's plans, Philips's plans, Philips references or Intel references during the prosecution of the patent applications leading to the '840, '061, or '318 Patents, despite the fact that the plans for Philips and Intel to add DSP and multimedia functions were "remarkably similar."

36. Upon information and belief, Moussouris and Hansen knew of Intel's MMX instruction set extensions prior to the issue date of the '840 and '061 Patents.

37. Upon information and belief, Moussouris and Hansen knew of Intel's MMX instruction set extensions prior to October 13, 1998, the filing date of the '318 Patent.

38. Upon information and belief, Moussouris and Hansen intentionally failed to cite any references discussing the Intel MMX instruction set extensions in the '840, '061, and '318 Patents and therefore intentionally failed to disclose to the Office all information known to Moussouris and Hansen to be material to patentability.

39. Upon information and belief, Intel's plans and the Intel MMX instruction set were material to the prosecution of the '840, '061, and '318 Patents. On information and belief, Intel's plans disclosed dynamic partitioning of media data that is narrower than the data path for

parallel processing. The Intel MMX instruction set processors, performed dynamic partitioning of media data that is narrower than the data path for parallel processing. Moussouris and Hansen intentionally withheld these references from the USPTO in violation of their duty of candor.

Sun UltraSPARC and HP PA-RISC References

40. 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.

41. 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.

42. Upon information and belief, 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?” Upon information and belief, Hansen responded via Usenet, stating “The size of the data is specified as part of the operation code of the instruction.”

43. On information and belief, Hansen read and understood the references to the PA-RISC and UltraSPARC multimedia extensions, and understood that the statement “these instructions operate simultaneously on many packed data items within their operands” to mean that the multimedia extensions included instructions for dynamic partitioning for parallel processing.

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

45. On information and belief, the multimedia extensions to the PA-RISC and UltraSPARC processors included instructions for dynamic partitioning of media data that is narrower than the data path for parallel processing.

46. Moussouris and Hansen intentionally withheld information on the PA-RISC and UltraSPARC processors from the USPTO in violation of their duty of candor.

Unenforceability Due to Failure to Disclose References

47. The materiality of the references described in paragraphs 16 to 46, together with Moussouris's and Hansen's knowledge of (1) the existence of the references, and (2) the claimed features of the '840, '061, and '318 Patents, shows that Moussouris and Hansen intentionally withheld these references from the USPTO during prosecution of the '840, '061, and '318 Patents with an intent to deceive the USPTO.

48. Moussouris and Hansen understood that the USPTO required them to disclose prior art that was material to patentability, including the references described in paragraphs 16 to 46. Moussouris and Hansen signed a Combined Declaration/Power of Attorney document. This document included a declaration that "We acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a)." Despite signing this declaration, Moussouris and Hansen intentionally withheld references that were material and non-cumulative to the examination of the '840, '061, and '318 Patents. This intentional withholding of material and non-cumulative information constitutes inequitable conduct and renders the '840, '061, and '318 Patents unenforceable.

49. The remaining asserted patents from the '840 Patent Family are all directly descended from either the '840 Patent, or both the '840 and '318 Patents. Upon information and belief, as described in paragraphs 16 to 48, Moussouris and Hansen obtained the '840 and '318 Patents through inequitable conduct in their dealings with the USPTO, without which the '840 and '318 Patents would not have been granted, or would have been granted in an amended form. Based on this inequitable conduct, the '366, '356, '217, '708, '972, '973, '367, '131, and '806 Patents are unenforceable as well.

WHEREFORE, LGE denies that any of its products, services, or processes infringes any claim of the '840 and '287 patents identified in the Complaint and further denies that Plaintiff is entitled to any judgment against LGE whatsoever. LGE asks that the Complaint be dismissed with prejudice, that judgment be entered for LGE, and that LGE be awarded attorneys' fees incurred in defending against the Complaint, together with such other relief the Court deems appropriate.

COUNTERCLAIMS

Parties

1. Defendant/Counterclaimant LG Electronics, Inc. is a corporation organized under the laws of South Korea and having a principal place of business at 16, Woomyeon-dong, Seocho-gu, Seoul 137-724, Korea.

2. Defendant/Counterclaimant LG Electronics Mobilecomm U.S.A., Inc. is a corporation organized under the laws of the state of California and having a principal place of business at 10101 Old Grove Road, San Diego, CA 92131. Defendants/Counterclaimants LG

Electronics, Inc. and LG Electronics Mobilecomm U.S.A., Inc. are hereinafter referred to collectively as “LGE.”

3. On information and belief, Plaintiff/Counterclaim Defendant MicroUnity is a corporation organized and existing under the laws of the state of California, with a principal place of business at 376 Martin Avenue, Santa Clara, CA 95050. As MicroUnity is the plaintiff in the above-captioned action, it may be served with a copy of this Counterclaim by serving this document in accordance with Rule 5 of the Federal Rules of Civil Procedure.

Jurisdiction and Venue

4. These counterclaims arise under federal law, and this Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338, 1367, 2201, and 2202, and the Patent Laws of the United States.

5. LGE maintains its right to seek a transfer of venue on forum non conveniens grounds pursuant to 28 U.S.C. § 1404. In the event of such transfer, LGE consents to the transfer of its counterclaims set forth herein. To the extent that this action remains in this District, venue is proper under 28 U.S.C. § 1391 and 1400(b) because Plaintiffs have consented to the propriety of venue in this Court by filing their claim for patent infringement in this Court, in response to which these counterclaims are asserted.

6. Plaintiff/Counterclaim Defendant has asserted that LGE infringes the ‘840 patent and the ‘287 patent (“Patents-in-Suit”). An actual controversy exists between Plaintiff/Counterclaim Defendant and LGE over the alleged infringement, validity, and enforceability of the Patents-in-Suit.

Count 1: Declaratory Judgment of Non-infringement

7. LGE incorporates by reference each preceding allegation as though expressly stated herein.

8. An actual controversy exists between Plaintiff/Counterclaim Defendant and LGE over the alleged infringement, validity, and enforceability of the Patents-in-Suit.

9. LGE has not infringed and does not presently infringe, either willfully or otherwise, nor has it contributed to the infringement of, or actively induced others to infringe any claim of the Patents-in-Suit.

10. LGE requests that this Court enter a judgment that LGE does not infringe directly or indirectly, literally or by the doctrine of equivalents, and has not infringed any claim of the Patents-in-Suit.

Count 2: Declaratory Judgment of Invalidity

11. LGE incorporates by reference each preceding allegation as though expressly stated herein.

12. An actual controversy exists between Plaintiff/Counterclaim Defendant and LGE over the alleged infringement, validity, and enforceability of the Patents-in-Suit.

13. The claims of the Patents-in-Suit are invalid for failing to comply with the conditions and requirements for patentability as set forth in the United States Patent Laws, Title 35 U.S.C. including specifically §§ 41, 101, 102, 103, 112, 116, 185, and/or 282 and the rules, regulations, and laws pertaining thereto.

14. Accordingly, LGE seeks a declaratory judgment pursuant to 28 U.S.C. §§ 2201-2202 that the Patents-in-Suit are invalid.

Count 3: Declaratory Judgment of Unenforceability

15. LGE incorporates by reference each preceding allegation as though expressly stated herein.

16. An actual controversy exists between Plaintiff/Counterclaim Defendant and LGE over the alleged infringement, validity, and enforceability of the Patents-in-Suit.

17. The claims of the Patents-in-Suit are unenforceable due to inequitable conduct committed by MicroUnity as more specifically described in paragraphs 16 through 49, and LGE is entitled to a declaration to that effect.

Count 4: Attorneys Fees and Costs

18. LGE incorporates by reference each preceding allegation as though expressly stated herein.

19. An actual controversy exists between Plaintiff/Counterclaim Defendant and LGE over the alleged infringement, validity, and enforceability of the Patents-in-Suit.

20. LGE is entitled to a declaration that this is an “exceptional” case within the meaning of 35 U.S.C. § 285, entitling LGE to an award of reasonable and necessary attorneys’ fees, expenses, and costs incurred in this action.

PRAYER FOR RELIEF

FOR THESE REASONS, LGE respectfully requests that this Court enter judgment in its favor and grant the following relief.

- a. That MicroUnity take nothing by its action and the Complaint be dismissed with prejudice;
- b. That the Court enter a declaratory judgment that LGE has not infringed and does not presently infringe, either willfully or otherwise, nor has it contributed to

the infringement of, or actively induced others to infringe, any claim of the Patents-in-Suit;

- c. That the Court enter a declaratory judgment that the Patents-in-Suit are invalid and/or unenforceable;
- d. That the Court finds that this is an exceptional case and award LGE its attorneys' fees in this action, pursuant to 35 U.S.C. § 285;
- e. That the Court award LGE its costs and expenses; and
- f. That the Court grant LGE such other relief as this Court may deem just and proper.

Dated: August 12, 2010

Respectfully submitted,

By: /s/ J. Thad Heartfield

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CERTIFICATE OF SERVICE

The undersigned certifies 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 the 12th day of August, 2010. Any other counsel of record will be served by first class mail.

/s/ J. Thad Heartfield
J. Thad Heartfield