

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

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

v.

ACER INC., a Republic of China corporation, et al.  
Defendants.

Case No. 02:10-cv-185-TJW-CE

JURY TRIAL DEMANDED

**ANSWER TO PLAINTIFF'S COMPLAINT FOR PATENT INFRINGEMENT**

Defendants HTC Corporation ("HTC Corp."), HTC America, Inc. ("HTC America") and Exedea, Inc. ("Exedea") (collectively "HTC" or "Defendants") answer the allegations made in Plaintiff MicroUnity Systems Engineering, Inc.'s ("MicroUnity" or "Plaintiff") Complaint for Patent Infringement ("Complaint") as follows:

**THE PARTIES**

1. Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

2. Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

3. Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

4. Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

**5.** Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

**6.** Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

**7.** Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

**8.** Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

**9.** Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

**10.** Defendants admit that HTC Corp. is a corporation organized under the laws of Taiwan, R.O.C., with its corporate headquarters at 23 Xinghua Road, Taoyuan 330, Taiwan, R.O.C. Defendants admit that HTC America is a U.S. subsidiary of HTC Corp. and that HTC America is a Texas corporation with offices at 13920 SE Eastgate Way, Suite 400, Bellevue, Washington 98005. Defendants admit that Exedea is also a U.S. subsidiary of HTC Corp. and that Exedea is a Texas corporation with offices at 5950 Corporate Drive, Houston, Texas 77036. Defendants further admit that HTC Droid Incredible and HTC Evo 4G phones are manufactured by HTC Corp. and are imported into and sold throughout the United States.

**11.** Defendants admit that HTC Corp. manufactures Nexus One phones, which are imported into and sold throughout the United States. Defendants otherwise lack sufficient information to admit or deny the rest of the allegation(s) in this paragraph and on that basis deny the same.

**12.** Defendants lack sufficient information to admit or deny the allegation(s) in this

paragraph and on that basis deny the same.

**13.** Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

**14.** Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

**15.** Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

**16.** Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

### **JURISDICTION AND VENUE**

**17.** To the extent this paragraph is directed at Defendants, they admit that this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because the Complaint purports to set forth an action arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*; Defendants also admit that they transact business in Texas, so venue is authorized in this judicial district pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b); Defendants, however, deny that this judicial district is the most convenient forum, and further deny each and every other allegation. To the extent this paragraph is directed at others, Defendants lack sufficient information to admit or deny the allegation(s) and on that basis deny the same.

**18.** Defendants admit that the present action involves some of the same patents involved 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; and *MicroUnity Systems Engineering, Inc. v. Advanced Micro Devices, Inc.*, C.A. No. 2:06-cv-486, and in pending action *MicroUnity Systems*

*Engineering Inc. v. Acer Inc., et al.*, C.A. No. 2:10-cv-091. Defendants also admit that each of these actions was filed in the United States District Court for the Eastern District of Texas, Marshall Division.

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

**19.** Defendants admit that a true and correct copy of United States Patent No. 5,742,840 C1 (the “840 patent”) is included as Exhibit C in the Complaint. Defendants otherwise lack sufficient information to admit or deny the rest of the allegation(s) in this paragraph and on that basis deny the same.

**20.** Defendants admit that a true and correct copy of Reexamination Certificate 5,742,840 C1 is included as Exhibit C1 in the Complaint. Defendants otherwise lack sufficient information to admit or deny the rest of the allegation(s) in this paragraph and on that basis deny the same.

**21.** Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

**22.** To the extent this paragraph is directed at Defendants, they admit that they manufacture and sell Droid Incredible, Evo 4G and Nexus One phones, but deny each and every other allegation. To the extent this paragraph is directed at others, Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

**23.** Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

**24.** To the extent this paragraph is directed at Defendants, they deny each and every allegation. To the extent this paragraph is directed at others, Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

**25.** Defendants lack sufficient information to admit or deny the allegation(s) in this

paragraph and on that basis deny the same.

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

26. Defendants admit that a true and correct copy of United States Patent No. 7,730,287 B2 (the “287 patent”) is included as Exhibit U in the Complaint. Defendants otherwise lack sufficient information to admit or deny the rest of the allegation(s) in this paragraph and on that basis deny the same.

27. Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

28. Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

29. Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

30. Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

31. To the extent that this paragraph requires a response, Defendants lack sufficient information to admit or deny the allegation(s) in this paragraph and on that basis deny the same.

**DEMAND FOR JURY TRIAL**

Defendants also demand a jury trial on all issues so triable.

**PRAYER FOR RELIEF**

Defendants oppose any of the relief sought by Plaintiff in its Prayer for Relief or any other relief sought by Plaintiff against Defendants.

**AFFIRMATIVE DEFENSES**

Defendants incorporate by reference the foregoing paragraphs in their entirety and, on

information and belief, assert the following Affirmative Defenses. Defendants reserve the right to amend its answer with additional defenses as further information becomes available.

**FIRST AFFIRMATIVE DEFENSE:**  
**(No Infringement)**

1. Defendants do not infringe and have not infringed any valid and enforceable claim of U.S. Patent No. 5,742,840 C1 (“patent-in-suit”).

2. Defendants do not induce or contribute to and have not induced or contributed to infringement of any valid and enforceable claim of the patent-in-suit.

**SECOND AFFIRMATIVE DEFENSE**  
**(Invalidity)**

3. Each asserted claim of the patent-in-suit is invalid for failing to satisfy the conditions for patentability set forth in Title 35 of the United States Code, including without limitation 35 U.S.C. §§ 101, 102, 103 and 112.

**THIRD AFFIRMATIVE DEFENSE**  
**(Laches)**

4. Plaintiff’s claims for relief are barred in whole or in part by laches.

**FOURTH AFFIRMATIVE OR OTHER DEFENSE:**  
**(Estoppel)**

5. Plaintiff’s claims are barred in whole or in part by estoppel.

**FIFTH AFFIRMATIVE DEFENSE:**  
**(License)**

6. Some or all of Defendants’ products have been licensed.

**SIXTH AFFIRMATIVE DEFENSE**  
**(Exhaustion)**

7. Plaintiff’s claims are barred in whole or in part by patent exhaustion.

**SEVENTH AFFIRMATIVE DEFENSE:**

**(No Fees, Costs or Damages)**

8. Plaintiff has failed to plead and/or meet the requirements under 35 U.S.C. §§ 284-288, and has otherwise failed to show that it is entitled to any fees, costs or damages.

Dated: August 11, 2010

Respectfully Submitted,

By: /s/ Kyle Chen  
Kyle Chen

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**ATTORNEYS FOR DEFENDANTS  
HTC CORPORATION, HTC AMERICA, INC.  
AND EXEDEA, INC.**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record deemed to have consented to electronic service were served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on the 11th day of August, 2010. Any other counsel of record will be served by email, facsimile transmission and/or first class mail.

/s/ Kyle D. Chen