

**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, )  
Defendants. )

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

**JURY TRIAL DEMANDED**

**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. LGE incorporates in this defense the foregoing admissions, denials, and allegations.

17. LGE is informed and believes, and, on that basis, alleges that '840 patent is 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 this asserted patent. The inventors Moussouris and Hansen and/or MicroUnity's attorneys Kenneth Cage and Lawrence Cullen, with intent to deceive the Patent Office examiner, knowingly withheld material information from the Patent Office.

18. Specifically, the named inventors were aware of references 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. Before the '840 patent was issued, MicroUnity (and Moussouris and Hansen, as CEO and chief architect, respectively) was

involved in a "technology collaboration" with Hewlett-Packard and several of its employees, including Ruby Lee. See Plaintiff MicroUnity System Engineering, Inc.'s Initial Disclosures in *MicroUnity Sys. Eng., Inc. v. Sony Computer Ent. Am., Inc.*, Case No. 05-cv-505 (E.D. Tex. Dec. 20, 2006) at 14. Lee was the architect of the Hewlett Packard media instruction set, which performed dynamic partitioning instructions. Lee filed patents and published articles pertaining to dynamic partitioning of media data prior to the filing of the '840 patent application. See, e.g., Ruby B. Lee, *Accelerating Multimedia with Enhanced Microprocessors*, IEEE Micro, April 2005. These multimedia instructions permit dynamic partitioning of the execution unit to perform group operations in parallel. 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.

19. During prosecution of several of the patents in the '840 Patent Family, such as the '840, '061, and '321 patents, MicroUnity successfully distinguished prior art by arguing that the prior art references did not disclose "dynamic partitioning . . . for parallel processing." The '840, '061, and '321 Patents were allowed on this basis. MicroUnity did not disclose any information about the PA 7100LC, or any of Lee's articles, to the Patent Office. Based on the arguments used to overcome the rejections, if Moussouris and Hansen had disclosed the Lee references, the disclosure would have resulted in further rejections of the claims of the '840 Patent Family applications.

20. 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, none of these references made it into the patent applications.

21. 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. The '840 patent family is therefore unenforceable due to inequitable conduct by the named inventors.

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 -340 patent and the -287 patent (öPatents-in-Suitö). 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.

**Count 2: Declaratory Judgment of Invalidity**

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

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

12. 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.

13. 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 Inequitable Conduct**

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

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

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

**Count 4: Attorneys Fees and Costs**

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

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

19. 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 11, 2010

Respectfully submitted,

By: /s/ J. Thad Heartfield  
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**ATTORNEYS FOR DEFENDANT/  
COUNTERCLAIM PLAINTIFF  
LG ELECTRONICS MOBILECOMM U.S.A.,  
INC.**

**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 11th day of August, 2010. Any other counsel of record will be served by first class mail.

/s/ J. Thad Heartfield  
J. Thad Heartfield