

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

MICROUNITY SYSTEMS ENGINEERING, INC. §
 §
 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, [NIC., 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, (21) TEXAS INSTRUMENTS INC., a §
 Delaware corporation, §
 §
 Defendants. §

CIVIL ACTION NO: 2:10-cv-185

DEFENDANT TEXAS INSTRUMENTS INCORPORATED'S
ANSWER TO THE COMPLAINT FOR PATENT INFRINGEMENT OF
PLAINTIFF MICROUNITY SYSTEMS ENGINEERING, INC.

Defendant Texas Instruments Incorporated (“TI”) hereby answers the Complaint for Patent Infringement of Plaintiff MicroUnity Systems Engineering, Inc. (“MicroUnity” or “Plaintiff”) as follows:

THE PARTIES

1. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Complaint and, therefore, denies them.

2. TI admits that it is incorporated under the laws of the state of Delaware, that it has a principle place of business as specified in paragraph 2 of the Complaint, and that it has developed, manufactures and sells its OMAP3 products to suppliers of cell phones and other products. TI denies the remainder of the allegations in paragraph 2 of the Complaint.

3. The allegations of paragraph 3 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Complaint and, therefore, denies them.

4. The allegations of paragraph 4 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Complaint and, therefore, denies them.

5. The allegations of paragraph 5 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Complaint and, therefore, denies them.

6. The allegations of paragraph 6 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6, and therefore denies them.

7. The allegations of paragraph 7 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7, and therefore denies them.

8. The allegations of paragraph 8 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8, and therefore denies them.

9. The allegations of paragraph 9 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9, and therefore denies them.

10. The allegations of paragraph 10 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10, and therefore denies them.

11. The allegations of paragraph 11 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11, and therefore denies them.

12. The allegations of paragraph 12 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12, and therefore denies them.

13. The allegations of paragraph 13 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13, and therefore denies them.

14. The allegations of paragraph 14 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 14, and therefore denies them.

15. The allegations of paragraph 15 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15, and therefore denies them.

16. The allegations of paragraph 16 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16, and therefore denies them.

JURISDICTION AND VENUE

17. TI admits that this Court has subject matter jurisdiction and, with respect to TI, admits that venue is proper under 28 U.S.C. §§ 1391(b)-(c). TI denies the remaining allegations contained in paragraph 17.

18. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18, and therefore denies them.

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

19. TI admits that, on its face, Exhibit C appears to be United States Patent No. 5,742,840 C1 (“the ‘840 patent”), entitled “General Purpose, Multiple Precision Parallel Operation, Programmable Media Processor,” issued on April 21, 1998 and assigned to

MicroUnity. TI is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 19, and therefore denies them.

20. TI admits that, on its face, Exhibit C1 appears to be Reexamination Certificate 5,742,840 C1 for the '840 patent issued in response to Reexamination Request No. 90/007,583, in which 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 7-10 are cancelled. TI is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 20, and therefore denies them.

21. TI denies the allegations contained in paragraph 21 of the complaint.

22. The allegations of paragraph 22 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 22, and therefore denies them.

23. The allegations of paragraph 23 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 23, and therefore denies them.

24. TI denies the allegations contained in paragraph 24 of the complaint.

25. TI denies the allegations contained in paragraph 25 of the complaint.

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

26. TI admits that, on its face, Exhibit U appears to be United States Patent No. 7,730,287 B2 ("the '287 patent"), entitled "Method and Software for Group Floating-Point Arithmetic Operations," issued on June 1, 2010 and assigned to MicroUnity. TI is

without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 26, and therefore denies them.

27. The allegations of paragraph 27 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 27, and therefore denies them.

28. The allegations of paragraph 28 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 28, and therefore denies them.

29. The allegations of paragraph 29 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 29, and therefore denies them.

30. The allegations of paragraph 30 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 30, and therefore denies them.

31. The allegations of paragraph 31 are not directed to TI, and therefore no answer is required. TI is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 31, and therefore denies them.

JURY DEMAND

32. Paragraph 32 does not contain any allegations of fact and therefore no answer is required.

PLAINTIFF'S PRAYER FOR RELIEF

TI denies that Plaintiff is entitled to any of requested relief against TI.

AFFIRMATIVE DEFENSES

TI's Affirmative Defenses are provided below. TI reserves the right to amend its Answer to add additional Affirmative Defenses.

FIRST AFFIRMATIVE DEFENSE

33. TI restates its responses as set forth above as if separately set forth herein.

34. TI has not and does not directly or indirectly (such as by inducement or contributory infringement) infringe any of the claims of U.S. Patent No. 5,742,840 C1 either literally or under the Doctrine of Equivalents.

SECOND AFFIRMATIVE DEFENSE

35. TI restates its responses as set forth above as if separately set forth herein

36. U.S. Patent No. 5,742,840 C1 is invalid or void for failing to satisfy the conditions of patentability as set forth in 35 U.S.C §§100, 101, 102, 103 and 112.

THIRD AFFIRMATIVE DEFENSE

37. TI restates its responses as set forth above as if separately set forth herein.

38. MicroUnity is estopped from construing any valid claim of U.S. Patent No. 5,742,840 C1 to be infringed literally or by the Doctrine of Equivalents by any act of TI due to the disclosures of prior art or to the admissions or statements made to the U.S. Patent and Trademark Office during prosecution of the patents in suit or because of the disclosure or language of the specification or claims thereof.

FOURTH AFFIRMATIVE DEFENSE

39. TI restates its responses as set forth above as if separately set forth herein.

40. To the extent that MicroUnity failed to properly mark any of its relevant products as required by 35 U.S.C. §287 or otherwise give proper notice that TI's actions

actually infringed the Patents, TI is not liable to MicroUnity for the acts alleged to have been performed before TI received notice that it was infringing U.S. Patent No. 5,742,840 C1.

FIFTH AFFIRMATIVE DEFENSE

41. TI restates its responses as set forth above as if separately set forth herein.

42. To the extent that MicroUnity asserts that TI indirectly infringes, either by contributory infringement or inducement, TI is not liable to MicroUnity for the acts alleged to have been performed before TI knew that its actions would cause the indirect infringement.

SIXTH AFFIRMATIVE DEFENSE

43. TI restates its responses as set forth above as if separately set forth herein.

44. MicroUnity's claims against TI are improper to the extent that any allegedly infringing products are directly or indirectly provided to TI or by TI to an entity having an express or implied license to U.S. Patent No. 5,742,840 C1.

SEVENTH AFFIRMATIVE DEFENSE

45. TI restates its responses as set forth above as if separately set forth herein.

46. MicroUnity is not entitled to any injunctive relief as demanded because any injury to MicroUnity is neither immediate nor irreparable, and MicroUnity has adequate remedies at law.

EIGHTH AFFIRMATIVE DEFENSE

47. TI restates its responses as set forth above as if separately set forth herein.

48. MicroUnity is barred by the doctrine of laches and/or equitable estoppel from obtaining damages from TI.

NINTH AFFIRMATIVE DEFENSE

49. Plaintiff has filed a prior lawsuit against TI alleging an identical claim involving the '840 patent and accused devices as alleged against TI in this cause of action. That case is now pending in this Court as Docket Number 2:10-cv-91-TJW; styled *MicroUnity v. Acer et al.* The Plaintiff may not simultaneously assert the same causes of action in separate proceedings, and TI should not be required to defend the same causes of action in parallel proceedings. This action should therefore be dismissed, as these issues have already been joined in the earlier filed case.

COUNTERCLAIMS

50. TI restates its responses as set forth above as if separately set forth herein.

51. TI has not directly or indirectly infringed, contributed to or induced infringement of any valid or enforceable claim of U.S. Patent No. 5,742,840 C1 and has not otherwise committed any acts in violation of 35 U.S.C. §271.

52. U.S. Patent No. 5,742,840 C1 is invalid for failing to meet the conditions for patentability as set forth in 35 U.S.C. §§100, 101, 102, 103 and 112.

53. An actual controversy exists between TI and MicroUnity concerning the alleged infringement and validity of U.S. Patent No. 5,742,840 C1 by virtue of MicroUnity's complaint herein.

54. TI is entitled to judgment from this Court that U.S. Patent No. 5,742,840 C1 has not been and is not being infringed by TI and that the foregoing patent is invalid.

55. This is an exceptional case entitling TI to an award of its attorney's fees incurred in connection with this action pursuant to 35 U.S.C. §285.

56. TI continues to investigate this matter and reserves the right to amend its Answer and/or Counterclaims to assert any additional defenses or counterclaims that come to light upon further investigation and discovery.

PRAYER FOR RELIEF

WHEREFORE TI prays that:

- 57. the Court dismiss the Complaint against TI with prejudice;
- 58. the Court declare that TI has not infringed and does not infringe U.S. Patent No. 5,742,840 C1;
- 59. the Court declare that U.S. Patent No. 5,742,840 C1 is invalid;
- 60. the Court declare that MicroUnity is not entitled to any remedy or relief whatsoever against TI;
- 61. the Court award TI its costs, together with reasonable attorneys fees and all of its expenses for this suit because this is an exceptional case under 35 U.S.C. §285; and
- 62. the Court award TI such other relief as this Court may deem just and proper.

Respectfully submitted,



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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) this 11th day of August, 2010. Any other counsel of record will be served by facsimile transmission and/or first class mail.



AMANDA A. ABRAHAM