

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 MOTOROLA, INC'S ANSWER AND COUNTERCLAIMS
TO PLAINTIFF MICROUNITY SYSTEMS ENGINEERING, INC.'S
COMPLAINT FOR PATENT INFRINGEMENT

Defendant Motorola, Inc. (“Motorola”) hereby files its Answer and Counterclaims to Plaintiff MicroUnity Systems Engineering, Inc.’s (“MicroUnity” or “Plaintiff”) Complaint for Patent Infringement of as follows:

THE PARTIES

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

2. The allegations of paragraph 2 are not directed to Motorola, and therefore no answer is required. Motorola is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 and, therefore, denies them.

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

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

5. Motorola 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 5, and that cell phones such as the Droid are manufactured and sold by Motorola. Motorola denies the remainder of the allegations in paragraph 5.

6. The allegations of paragraph 6 are not directed to Motorola, and therefore no answer is required. Motorola 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 Motorola, and therefore no answer is required. Motorola 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 Motorola, and therefore no answer is required. Motorola 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 Motorola, and therefore no answer is required. Motorola 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 Motorola, and therefore no answer is required. Motorola 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 Motorola, and therefore no answer is required. Motorola 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 Motorola, and therefore no answer is required. Motorola 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 Motorola, and therefore no answer is required. Motorola 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 Motorola, and therefore no answer is required. Motorola 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 Motorola, and therefore no answer is required. Motorola 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 Motorola, and therefore no answer is required. Motorola 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. Motorola admits that this Court has subject matter jurisdiction and, with respect to Motorola, admits that venue is proper under 28 U.S.C. §§ 1391(b)-(c). Motorola denies the remaining allegations contained in paragraph 17.

18. Motorola 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. Motorola 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. Motorola 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. Motorola 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. Motorola 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. The allegations of paragraph 21 are not directed to Motorola, and therefore no answer is required. Motorola is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 21, and therefore denies them.

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

23. The allegations of paragraph 23 are not directed to Motorola, and therefore no answer is required. Motorola 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. Motorola denies the allegations directed to Motorola contained in paragraph 24. The remaining allegations of paragraph 24 are not directed to Motorola, and therefore no answer is required. Motorola is without knowledge or information sufficient to form a

belief as to the truth of the allegations directed to other defendants of paragraph 24, and therefore denies them.

25. Motorola denies the allegations directed to Motorola contained in paragraph 25. The remaining allegations of paragraph 25 are not directed to Motorola, and therefore no answer is required. Motorola is without knowledge or information sufficient to form a belief as to the truth of the allegations directed to other defendants of paragraph 25, and therefore denies them.

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

26. Motorola 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. Motorola 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 Motorola, and therefore no answer is required. Motorola 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 Motorola, and therefore no answer is required. Motorola 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 Motorola, and therefore no answer is required. Motorola 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 Motorola, and therefore no answer is required. Motorola 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 Motorola, and therefore no answer is required. Motorola 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

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

AFFIRMATIVE DEFENSES

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

FIRST AFFIRMATIVE DEFENSE

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

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

FIFTH AFFIRMATIVE DEFENSE

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

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

SIXTH AFFIRMATIVE DEFENSE

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

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

SEVENTH AFFIRMATIVE DEFENSE

45. Motorola 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. Motorola 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 Motorola.

NINTH AFFIRMATIVE DEFENSE

49. Plaintiff has filed a prior lawsuit against Motorola alleging an identical claim involving the '840 patent and accused devices as alleged against Motorola 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 Motorola 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. Motorola restates its responses as set forth above as if separately set forth herein.

51. Motorola 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 Motorola 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. Motorola 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 Motorola and that the foregoing patents are invalid.

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

56. Motorola 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 Motorola prays that:

57. the Court dismiss the Complaint against Motorola with prejudice;

58. the Court declare that Motorola has not infringed and does not infringe U.S. Patent No. 5,742,840 C1;

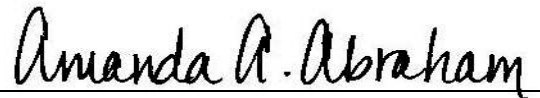
59. the Court declare that U.S. Patent No. 5,742,840 C1 is invalid;

60. the Court declare that MicroUnity is not entitled to any remedy or relief whatsoever against Motorola;

61. the Court award Motorola 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 Motorola such other relief as this Court may deem just and proper.

Respectfully submitted,



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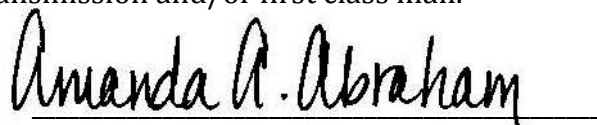
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**ATTORNEYS FOR DEFENDANT
MOTOROLA, INC.**

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