

**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.

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Civil Action No. 02:10-cv-00185-TJW-CE

ANSWER AND DEFENSES OF NOKIA INC. AND NOKIA CORPORATION

To the extent any response is required to the unnumbered preamble of the Complaint (“Complaint”): Denied.

Nokia Inc. and Nokia Corporation (“Nokia”) hereby respond to the numbered paragraphs of the Complaint with the following corresponding paragraphs.

PARTIES

1. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

2. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

3. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

4. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

5. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

6. Denied, except that Nokia Corporation is incorporated in Finland with its principal place of business at Nokia House, Keilalahdentie 2-4, FIN-02150 Espoo, Finland; Nokia Inc. is a Delaware corporation; and the N900 is manufactured by Nokia Corporation, imported into the United States by Nokia Inc., and offered for sale within the United States by Nokia Inc.

7. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

8. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

9. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

10. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

11. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

12. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

13. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

14. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

15. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

16. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

JURISDICTION AND VENUE

17. To the extent any response is required: Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments, except that Plaintiff has alleged an action arising under certain provisions of Title 35 of the United States Code.

18. To the extent any response is required: Denied, except that cases listed in paragraph 18 of the Complaint involved some of the patents asserted in the Complaint.

ANSWER TO COUNT I

19. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments, except that what appears to be a copy of United States Patent No. 5,742,840 (“the ‘840 patent”), entitled “General purpose, multiple precision parallel operation, programmable media processor” and having a stated issue date of April 21, 1998, is attached as Exhibit C to the Complaint.

20. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments, except that what appears to be a copy of Reexamination Certificate 5,742,840 C1 is attached as Exhibit C1 to the Complaint.

21. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

22. As to Nokia: Denied. As to defendants other than Nokia: Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

23. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

24. As to Nokia: Denied. As to defendants other than Nokia: Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

25. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

ANSWER TO COUNT II

26. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments, except that what appears to be a copy of United States Patent No. 7,730,287 (“the ‘287 patent”), entitled “Method and software for group floating-point arithmetic operations” and having a stated issue date of June 1, 2010, is attached as Exhibit U to the Complaint.

27. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

28. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

29. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

30. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

31. Denied, because Nokia is without knowledge or information sufficient to form a belief as to the truth of the averments.

JURY DEMAND

32. To the extent any response is required to Plaintiff’s Jury Demand: Denied.

PRAYER FOR RELIEF

33. To the extent any response is required to any paragraph of Plaintiff’s Prayer for Relief, including without limitation its unnumbered paragraph and the paragraphs it has labeled a-e: Denied.

34. To the extent Nokia has not addressed above any allegations of the Complaint: Denied.

AFFIRMATIVE AND OTHER DEFENSES

35. Pursuant to Federal Rule of Civil Procedure 8(b) and (c), without assuming any burden that it would not otherwise bear, without reducing or removing Plaintiff's burdens of proof on its affirmative claims against Nokia, reserving its right to assert additional defenses, and affirmatively solely to the extent deemed necessary by the Court to maintain any or all of the following defenses, Nokia asserts the following defenses to Plaintiff's Complaint:

FIRST DEFENSE

36. Nokia does not and has not infringed any valid and enforceable claim of the '840 patent literally, under the doctrine of equivalents, directly, indirectly, contributorily, by way of inducement, and/or via any other mechanism of liability.

SECOND DEFENSE

37. Each of the claims of the '840 patent is invalid and/or unenforceable for failure to comply with one or more of the conditions of patentability set forth in Title 35 of the United States Code, including without limitation, for example, Sections 101, 102, 103, and 112.

THIRD DEFENSE

38. Plaintiff's has made a duplicative claim for patent infringement of the '840 patent against the same parties in both Civil Action No. 02:10-cv-00091-TJW-CE and Civil Action No. 02:10-cv-00185. Nokia respectfully requests that the Court dismiss one of these claims pursuant to Fed. R. Civ. P. 42(a)(3).

FOURTH DEFENSE

39. Plaintiff's claims for patent infringement are precluded in whole or in part (i) to the extent that any allegedly infringing products or components thereof are supplied, directly or indirectly, to Nokia or are imported, sold by, offered for sale by, made by, or made for, any entity or entities having express or implied licenses to the '840 patent and/or (ii) under the doctrine of patent exhaustion.

FIFTH DEFENSE

40. Plaintiff is barred in whole or in part under principles of equity, including without limitation, laches, prosecution laches, waiver, estoppel, and/or unclean hands.

SIXTH DEFENSE

41. Any claim by Plaintiff for damages is limited under 35 U.S.C. §§ 286 or 287. Plaintiff is barred under 35 U.S.C. § 287 from recovering damages prior to the date of the filing of the Complaint. Plaintiff is barred by 35 U.S.C. § 288 from recovering costs associated with its action.

SEVENTH DEFENSE

42. Plaintiff is not entitled to injunctive relief under any theory, including without limitation, because any alleged injury to Plaintiff is not immediate or irreparable, Plaintiff has an adequate remedy at law, and/or public policy concerns weigh against any injunctive relief.

EIGHTH DEFENSE

43. Plaintiff is estopped by reason of prosecution history estoppel from asserting infringement of the '840 patent under the doctrine of equivalents.

NINTH DEFENSE

44. By reason of the proceedings in the U.S. Patent and Trademark Office during the prosecution of the applications which resulted in the issuance of the '840 patent, Plaintiff is estopped from claiming infringement by Nokia of one or more claims of the '840 patent.

45. Nokia reserves any and all rights to amend its answer to amend its currently pled defenses and/or add additional defenses as they become apparent.

PRAYER FOR RELIEF

WHEREFORE, Nokia respectfully requests a judgment against Plaintiff as follows:

A. that Plaintiff take nothing by its Complaint in this action;

B. that the Court enter judgment against Plaintiff and in favor of Nokia, and that the Complaint in this action be dismissed with prejudice;

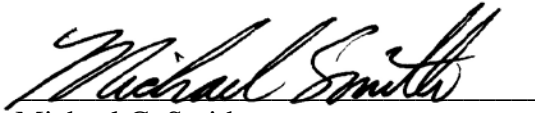
C. that the Court enter judgment that Nokia does not infringe any claim of the '840 patent;

D. that the Court enter judgment that the claims of the '840 patent are invalid;

E. that the Court declare this is an exceptional case under 35 U.S.C. § 285 and award Nokia its costs and attorneys' fees; and

F. that the Court award Nokia any and all other relief to which it may be entitled, or which the Court deems just and proper.

Respectfully submitted,

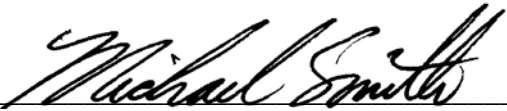
A handwritten signature in black ink, appearing to read "Michael C. Smith", is written over a horizontal line.

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ATTORNEYS FOR DEFENDANTS
NOKIA CORPORATION and
NOKIA, 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 the 11th day of August, 2010. Any other counsel of record will be served by facsimile transmission and/or first class mail.



Michael C. Smith