Exhibit C

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

NEGOTIATED DATA SOLUTIONS LLC, Plaintiff-Counter-Defendant, v. DELL, INC., Defendant-Counter-Plaintiff/Third-Party Plaintiff, v. NATIONAL SEMICONDUCTOR CORPORATION, Third-Party Defendant;	Civil Action No. 2:06-CV-528 (CE) **JURY TRIAL DEMANDED** REDACTED VERSION
INTEL CORPORATION, Intervening Third-Party Plaintiff, v. NEGOTIATED DATA SOLUTIONS LLC, Third-Party Defendant.	

INTERVENER INTEL CORPORATION'S THIRD-PARTY COMPLAINT FOR DECLARATORY JUDGMENT OF LICENSE AND PATENT EXHAUSTION

TO THE HONORABLE JUDGE OF SAID COURT:

Pursuant to Rule 24 of the Federal Rules of Civil Procedure, Intervener Intel Corporation submits the following Third-Party Complaint against Plaintiff-Counter-Defendant Negotiated Data Solutions LLC ("N-Data") for declaratory judgment of license and patent exhaustion:

Parties

1. Intel is a Delaware corporation with its principal place of business located at 2200 Mission College Boulevard, Santa Clara, California. Intel, originally founded in 1968 in Mountain View, California, is a leader in semiconductor technology, working towards creating the next revolutionary steps in mobile, desktop, and data center computing.

2. Defendant-Counter-Plaintiff Dell, Inc. ("Dell") is one of Intel's customers.

3. On information and belief, N-Data is an Illinois limited liability company, formed in or about 2003, with its principal place of business located at 1550 North Lake Shore Drive, Unit 16C, Chicago, Illinois, a residential condominium apartment owned by Alan R. Loudermilk. On information and belief, Mr. Loudermilk, founder, manager, and sole member of N-Data, is the California agent for service of process for N-Data, and his residence located at 13212 Peacock Court, Cupertino, California is the address for service of process for N-Data.

Jurisdiction and Venue

4. This Court has personal jurisdiction over N-Data at least because it has availed itself of the privileges and benefits of this forum by filing its Complaint in this District.

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 2201-2202, 1331, 1338, and/or 1367.

6. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and/or 1400(b).

Background

7. In 1976, Intel and National Semiconductor Corporation ("National") entered into a patent cross-license agreement ("Intel-National License"), which provides, among other things,

that Intel has REDACTED

A true and correct copy of the Intel-National License is attached as Exhibit 1.

8. The Intel-National License defines NATIONAL PATENTS as

REDACTED

The Effective Date of the Intel-National License is

9. The Intel-National License provides that the license grant

REDACTED The Intel-National License did not expire until after

10. The Intel-National License provides that

The Intel-National License further provides that

REDACTED

11. Vertical Networks, Inc. ("Vertical") was formed in or about 1998 by a group that included former National engineers to develop and market PBX/telephony systems. On information and belief, Mr. Loudermilk was the patent attorney and/or agent of Vertical.

12. National purportedly assigned various patents and patent applications to Vertical, including U.S. Patent No. 5,361,261, which N-Data has asserted in its Complaint, as well as U.S.

Patent No. 5,533,018, U.S. Patent No. 5,594,734, and U.S. Patent No. 5,566,169, the reissues of which N-Data has asserted in its Complaint (collectively "Patents-in-Suit"). On information and belief, Mr. Loudermilk was involved in, or is otherwise knowledgeable about, the negotiations between Vertical and National regarding Vertical's purported acquisition of National's patents and patent applications.

13. On information and belief, Vertical purportedly assigned the patents and patent applications it had acquired from National to N-Data, sold its remaining business assets, and ceased operations some time during the last quarter of 2003.

14. On information and belief, N-Data was formed in or about 2003 for the purpose of licensing and enforcing the patents it purportedly acquired from National through Vertical, in order to recoup the investment of venture capitalists who had invested in Vertical.

15. On information and belief, prior to the purported assignment of the Patents-in-Suit, National provided to Vertical a copy of National's June 7, 1994 letter, which set forth National's licensing commitment to the Institute of Electrical and Electronics Engineers ("IEEE"), a standard setting organization. In exchange for IEEE's adoption of an autodetection standard based on National's architecture known as "NWay," National had agreed to license its NWay technology to any requesting party for a one-time fee of one thousand dollars ($1,000.00). On information and belief, the patents asserted by N-Data are included in the $1,000 one-time license fee commitment by National.

16. To the extent Vertical and N-Data have been proper assignees of the Patents-in-Suit, Vertical and N-Data each assumed and was bound by National's promises and contractual obligations relating to the Patents-in-Suit.

17. On information and belief, Vertical sent a letter to IEEE on or about March 27, 2002 regarding licensing, in which Vertical sought to repudiate National's prior commitment to license the NWay technology by claiming that "the assurances provided in this letter supersede

any assurances provided by National Semiconductor Corporation relevant to the above-identified patents."

18. On information and belief, Vertical identified a list of target companies that practiced the IEEE standards incorporating NWay technology. Between 2002 and 2004, Mr. Loudermilk sent letters on behalf of Vertical to most of those companies, demanding licensing fees substantially in excess of the $1,000.00 one-time licensing fee commitment by National, and threatened or initiated legal actions against those companies that refused to pay Vertical's royalty demands.

19. On December 13, 2006, N-Data filed the present action against Intel's customer, Dell, less than a month after Quanta Computer Inc. filed a petition for writ of certiorari to the United States Supreme Court from *LG Elecs., Inc. v. Bizcom Elecs., Inc.,* 453 F.3d 1364 (Fed. Cir. 2006), presenting the question, "Whether the Federal Circuit erred by holding, in conflict with decisions of this Court and other courts of appeals, that respondent's patent rights were not exhausted by its license agreement with Intel Corporation, and Intel's subsequent sale of product under the license to petitioners."

20. On or about February 23, 2007, Dell filed its answer and counterclaims against N-Data and its third-party complaint against National in the present action.

21. On or about August 10, 2007, N-Data served its Rule 3-1 Disclosure of Asserted Claims and Infringement Contentions in the present action. These infringement contentions are directed to systems sold by Dell, many of which incorporate Intel components licensed under the Patents-in-Suit pursuant to the Intel-National License. Consequently, Dell demanded indemnification from Intel with respect to N-Data's infringement allegations to the extent they are directed at Dell systems incorporating Intel components.

22. The Supreme Court granted certiorari in Quanta *Computer, Inc. v. LG Elecs., Inc.* on September 25, 2007, and oral argument took place on January 16, 2008.

23. On January 23, 2008, the Federal Trade Commission announced a complaint and proposed consent order with N-Data, *In the Matter of Negotiated Data Solutions LLC,* File No. 051 0094. N-Data's course of conduct was alleged to have caused and likely to continue to cause substantial injury to consumers that could not reasonably be avoided and is not outweighed by countervailing benefits to consumers or competition, and the acts and practices of N-Data were alleged to constitute unfair methods of competition in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45. According to the Federal Trade Commission's Complaint against N-Data, the final agreement between Vertical and National stated that the assignment is "subject to any existing licenses and other encumbrances that [National] may have granted."

24. The present action is the second complaint N-Data has filed against Dell alleging infringement of patents purportedly acquired from National through Vertical. N-Data also filed *Negotiated Data Solutions LLC v. Dell, Inc.,* Case No. 3:03-cv-05755 JSW, in the Northern District of California.

25. On June 9, 2008, the United States Supreme Court issued its decision in *Quanta Computer, Inc. v. LG Elecs., Inc.,* 128 S. Ct. 2109 (2008), regarding the scope of the doctrine of patent exhaustion, causing the issues of license and exhaustion raised herein to be front and center of the ongoing dispute between N-Data, Dell, National, and Intel.

26. Intel therefore seeks to intervene in this action as a third-party plaintiff to seek declaratory judgment of license and exhaustion with respect to the Patents-in-Suit in order to dispose of N-Data's allegations of infringement against Intel's customer, Dell, with respect to Dell systems that include Intel components licensed under the Intel-National License.

COUNT I

Declaratory Judgment That Intel Is Licensed to the Patents-in-Suit

27. Intel realleges and incorporates herein by reference the matters alleged in paragraphs 1 through 26 above.

28. By virtue of the Intel-National License, Intel is licensed to the Patents-in-Suit.

29. By virtue of the conduct of N-Data alleged herein and its duties and obligations owed to Intel, on which Intel reasonably relied, Intel has an implied license to the Patents-in-Suit.

30. An actual and justiciable controversy exists between N-Data and Intel with respect to the Patents-in-Suit. Absent a declaration and order as sought by Intel, N-Data will continue to wrongfully assert patents which N-Data knows have been licensed to Intel and threaten Intel and its customers, including Dell, thereby causing Intel irreparable injury and damage.

31. The dispute regarding the Intel-National License is definite and concrete and touches the legal relations of all of the parties to this action, as well as the legal, business, and financial relations and obligations between Intel and its customers. Accordingly, this issue is real and substantial and of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

32. A declaration by this Court that Intel is licensed to the Patents-in-Suit will render moot many existing claims and defenses in this action, as well as potentially render moot Dell's recent indemnification demand. In light of the recent decision by the Supreme Court concerning the doctrine of patent exhaustion in *Quanta Computer, Inc. v. LG Elecs., Inc.*, 128 S. Ct. 2109 (2008), and its impact on Intel's rights and obligations, this issue is ripe for consideration.

33. Intel is entitled to a declaration that Intel is licensed to the Patents-in-Suit pursuant to the Intel-National License.

COUNT II

Declaratory Judgment That N-Data's Purported Rights in the Patents-in-Suit Are Exhausted as to Licensed Intel Components

34. Intel realleges and incorporates herein by reference the matters alleged in Paragraphs 1 through 33 above.

35. An actual and justiciable controversy exists between N-Data and Intel with

respect to the Patents-in-Suit. In view of Intel's indemnification obligation to Dell as Intel's customer, this issue is real and substantial and of sufficient immediacy and reality to warrant the issuance of a declaratory judgment. Absent a declaration and order as sought by Intel, N-Data will continue to wrongfully assert patent claims which N-Data knows are subject to the Intel-National License and/or implied license and are therefore exhausted.

36. The dispute as to whether N-Data's patent claims are exhausted as to Intel components licensed pursuant to the Intel-National License and/or impliedly licensed, in light of the recent decision by the Supreme Court, *Quanta Computer, Inc. v. LG Elecs., Inc.*, 128 S. Ct. 2109 (2008), is definite and concrete and touches the legal relations of all of the parties to this action, as well as the legal, business, and financial relations and obligations between Intel and its customers. Absent a declaration and order as sought by Intel, N-Data will continue to wrongfully assert the Patents-in-Suit against Dell and threaten Intel and its customers, thereby causing Intel irreparable injury and damage.

37. A declaration by this Court that N-Data's patent claims directed to the accused Dell systems with licensed Intel components are barred under the doctrine of patent exhaustion will render moot many existing claims and defenses in this action, as well as potentially render moot Dell's recent indemnification demand.

38. Intel is entitled to a declaration that N-Data's infringement claims directed to the accused Dell systems with Intel components licensed pursuant to the Intel-National License and/or impliedly licensed are barred by the doctrine of patent exhaustion based on the recent holding in *Quanta Computer, Inc. v. LG Elecs., Inc.*, 128 S. Ct. 2109 (2008).

Demand for Jury Trial

39. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and Local Rule CV-38, Intervener Intel Corporation demands a trial by jury of its Third-Party Complaint of all issues so triable.

Prayer for Relief

WHEREFORE, Intel respectfully requests the Court to enter judgment in its favor and against N-Data and National and to grant the following relief:

A. A declaration that Intel is licensed to the Patents-in-Suit under the Intel-National License;

B. A declaration that Intel has an implied license to the Patents-in-Suit;

C. A declaration that N-Data's claims under the Patents-in-Suit are barred by the doctrine of patent exhaustion as to Intel components licensed pursuant to the Intel-National License and/or impliedly licensed;

D. An injunction barring N-Data from enforcing the Patents-in-Suit against Intel, Dell, or any other Intel customer as to Intel components licensed pursuant to the Intel-National License;

E. A dismissal with prejudice of N-Data's claims under the Patents-in-Suit;

F. A finding that this case is an exceptional case pursuant to 35 U.S.C. § 285 and an award of Intel's attorneys fees and costs to the extent permitted by law; and

G. Any and all other relief to which Intel may be justly entitled.

Dated: October 24, 2008

Respectfully submitted,

/s/ Michael E. Jones

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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) on October 24, 2008. Any other counsel of record will be served by First Class U.S. mail on this same date.

/s/ Michael E. Jones