

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
NORTHERN DIVISION

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PHILLIP M. ADAMS & ASSOC. L.L.C, A  
Utah Limited Liability Co.,

Plaintiff,

vs.

WINBOND ELECTRONICS CORP., et  
al.,

Defendants.

MEMORANDUM DECISION AND  
ORDER DENYING DEFENDANTS'  
MOTION FOR SUMMARY  
JUDGMENT ON INVALIDITY OF  
'002 AND '222 PATENTS

Case No. 1:05-CV-64 TS

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Former Defendant Sony filed the present Motion for Summary Judgment of Invalidity of the '002, '222 and '767 Patents on the ground that it was anticipated by a detector program developed by NEC Corporation (NEC program). Sony filed the Motion on behalf of itself, Winbond, ASUS, and MSI. MSI subsequently filed a joinder in the Motion.<sup>1</sup> All claims between Sony and Plaintiff have been dismissed and all claims regarding the '767 patent have been withdrawn from this case.

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<sup>1</sup>Docket No. 1081.


The Court, having considered the entire record on this motion, finds that there are material issues of fact. Therefore summary judgment must be denied.

The Court notes that in one sentence on the last page of Plaintiff's Opposition, it purports to seek summary judgment that the "NEC program is not prior art under 35 U.S.C. § 102."<sup>2</sup> Such a single sentence buried in an Opposition brief is insufficient to constitute a motion. It is therefore

ORDERED that Defendants' Motion Summary Judgment of Invalidity of the '002, '222, and '767 Patents (Docket No. 1067) is DENIED as to the '002 and '222 Patents and MOOT as to the '767 Patent.

DATED July 30, 2010.

BY THE COURT:



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TED STEWART  
United States District Judge

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<sup>2</sup>Docket No. 1158, at 14.