

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

MICRO DESIGN LLC,

Plaintiff,

v.

NEC CORPORATION OF AMERICA and  
NEC CORPORATION,

Defendants.

**Civil Action No.** \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Micro Design LLC (“Micro Design” or “Plaintiff”), for its Complaint against Defendant NEC Corporation of America and NEC Corporation, collectively referred to as (“NEC” or “Defendants”), alleges the following:

**NATURE OF THE ACTION**

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

**THE PARTIES**

2. Plaintiff Micro Design is a limited liability company organized under the laws of the State of Delaware, with a place of business at 845 Tatnall Street, Wilmington, DE 19801.

3. Upon information and belief, NEC Corporation of America is a corporation organized and existing under the laws of the Delaware, with a place of business at NEC Corporation of America, 6535 N. State Highway 161, Irving, TX 75039, and a registered agent for service of process at Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington DE 19808. Upon information and belief, NEC Corporation of America sells and offers to sell products and services throughout the United States, including in this judicial

district, and introduces products and services that perform infringing processes into the stream of commerce knowing that they would be sold in this judicial district and elsewhere in the United States.

4. Upon information and belief, NEC Corporation is a corporation organized and existing under the laws of Japan, with a place of business at NEC Corporation, NEC Corporation, 7-1, Shiba 5-chome, Minato-ku, Tokyo 108-8001 Japan, and can be served at that address. Upon information and belief, NEC Corporation sells and offers to sell products and services throughout the United States, and introduces products and services that perform infringing processes into the stream of commerce knowing that they would be sold in the United States.

#### **JURISDICTION AND VENUE**

5. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

6. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and 1400(b).

8. Upon information and belief, NEC conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Delaware. Further, this Court has personal jurisdiction over NEC Corporation of America because it is incorporated in Delaware and has purposely availed itself of the privileges and benefits of the laws of the State of Delaware.

**COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,437,535**

9. The allegations set forth in the foregoing paragraphs 1 through 8 are incorporated into this First Claim for Relief.

10. On October 14, 2008, U.S. Patent No. 7,437,535 (“the ’535 patent”), entitled “Method and Apparatus for Issuing a Command to Store an Instruction and Load Resultant Data in a Microcontroller,” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’535 patent is attached as Exhibit A.

11. Micro Design is the assignee and owner of the right, title and interest in and to the ’535 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

12. Upon information and belief, NEC has and continues to directly infringe one or more claims of the ’535 patent by making, using, selling, importing and/or providing and causing to be used microprocessors that contain the claimed combinations of the ’535 patent, including the processor and co-processor features, including, but not limited to memory accessing features, which products by way of example include Express5800® server series and HPC cluster solution LX® series server (the “Accused Instrumentalities”).

13. NEC was made aware of the ’535 patent and its infringement thereof at least as early as their receipt of correspondence from Micro Design providing notice of the ’535 patent and NEC’s infringement thereof sent to Defendants on June 6, 2014. Each letter was sent by certified mail with return receipt requested or via Federal Express with notification of delivery requested. Micro Design has since received the return receipt from each Defendant, indicating that Defendants have received the letters.

14. Upon information and belief, since at least the time they received notice, NEC has induced and continues to induce others to infringe at least one claim of the '535 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including but not limited to NEC's partners and customers, whose use of the Accused Instrumentalities constitutes direct infringement of at least one claim of the '535 patent.

15. In particular, NEC's actions that aid and abet others such as their partners and customers to infringe include advertising and distributing the Accused Instrumentalities and providing instruction materials, training, and services regarding the Accused Instrumentalities. On information and belief, NEC has engaged in such actions with specific intent to cause infringement or with willful blindness to the resulting infringement because NEC has had actual knowledge of the '535 patent and that their acts were inducing infringement of the '535 patent since at least the date NEC received notice that such activities infringed the '535 patent.

16. Despite Micro Design's notice to NEC regarding the '535 patent, NEC has continued to infringe the '535 patent. On information and belief, NEC's infringement has been and continues to be willful.

17. Micro Design has been harmed by NEC's infringing activities.

#### **JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Micro Design demands a trial by jury on all issues triable as such.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Micro Design demands judgment for itself and against Defendants as follows:

A. An adjudication that Defendants have infringed the '535 patent;

B. An award of damages to be paid by NEC adequate to compensate Micro Design for NEC's past infringement of the '535 patent, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;

C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees; and

D. An award to Micro Design of such further relief at law or in equity as the Court deems just and proper.

Dated: June 27, 2014

DEVLIN LAW FIRM LLC

*/s/ Timothy Devlin*

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