

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

NORTH STAR INNOVATIONS INC.,

Plaintiff,

v.

FUJITSU LTD. , and

FUJITSU AMERICA, INC.,

Defendants.

Civ. Act. No.

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, North Star Innovations Inc., by and through its undersigned counsel, files this Complaint for Patent Infringement against Defendants Fujitsu Ltd. and Fujitsu America, Inc. (collectively "Fujitsu" or "Defendants").

THE PARTIES

1. Plaintiff North Star Innovations Inc. ("NSI") is a corporation formed under the laws of the State of Delaware with its principal place of business at Plaza Tower, 600 Anton Boulevard, Suite 1350, Costa Mesa, CA 92626. NSI is an owner of seminal patents in the field of semiconductor and semiconductor memory technologies, and is actively engaged in the licensing of such technologies.

2. Fujitsu America Inc. ("Fujitsu America") is, on information and belief, a company organized under the laws of the State of California and has a principal place of

business at 1250 E. Arques Avenue, Sunnyvale, CA 94085 and, is registered to do business in this this District.

3. Fujitsu, Ltd. ("Fujitsu Japan "), on information and belief, is a company organized under the laws of Japan and has its corporate headquarters at Shiodome City Center, 1-5-2 Higashi-Shimbashi, Minato-ku, Tokyo 105-7123, Japan.

4. Upon information and belief, Fujitsu has conducted and regularly conducts business within this District, has purposefully availed itself of the privileges of conducting business in this District, and has sought protection and benefit from the laws of the State of Delaware.

JURISDICTION AND VENUE

5. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

6. As further detailed herein, this Court has personal jurisdiction over Fujitsu America. Furthermore, personal jurisdiction over Fujitsu America in this action comports with due process. Fujitsu America has conducted and regularly conducts business within the United States and this District. Fujitsu America has purposefully availed itself of the privileges of conducting business in the United States, and more specifically in Delaware and this District. Fujitsu America has incorporated under the laws of the State of Delaware and sought protection and benefit from the laws of the State of Delaware by placing infringing products into the stream of commerce through an

established distribution channel with the awareness and/or intent that they will be purchased by consumers in this District.

7. On information and belief, Fujitsu America, directly or through intermediaries (including distributors, retailers, and others), subsidiaries, alter egos, and/or agents, ships, distributes, offers for sale, and/or sells its products in the United States and this District. On information and belief, Fujitsu America has purposefully and voluntarily placed one or more of its infringing products, as described below, into the stream of commerce with the awareness and/or intent that they will be purchased by consumers in this District. On information and belief, Fujitsu America knowingly and purposefully ships infringing products into and within this District through an established distribution channel. On information and belief, these infringing products have been and continue to be purchased by consumers in this District. Upon information and belief, through those activities, Fujitsu America has committed the tort of patent infringement in this District and/or has induced others to commit patent infringement in this District.

8. As further detailed herein, this Court has personal jurisdiction over Fujitsu Japan. Furthermore, personal jurisdiction over Fujitsu Japan in this action comports with due process. On information and belief, Fujitsu Japan has conducted and regularly conducts business within the United States and this District. On information and belief, Fujitsu Japan has purposefully availed itself of the privileges of conducting business in the United States, and more specifically in Delaware and this District. Fujitsu Japan has sought protection and benefit from the laws of the State of Delaware by placing infringing products into the stream of commerce through an established distribution

channel with the awareness and/or intent that they will be purchased by consumers in this District.

9. On information and belief, Fujitsu Japan, directly or through intermediaries (including distributors, retailers, and others), subsidiaries, alter egos, and/or agents, ships, distributes, offers for sale, and/or sells its products in the United States and this District. On information and belief, Fujitsu Japan has purposefully and voluntarily placed one or more of its infringing products, as described below, into the stream of commerce with the awareness and/or intent that they will be purchased by consumers in this District. On information and belief, these infringing products have been and continue to be purchased by consumers in this District. Upon information and belief, through those activities, Fujitsu Japan has committed the tort of patent infringement in this District and/or has induced others to commit patent infringement in this District.

10. Venue is proper in this Court according to the venue provisions set forth by 28 U.S.C. §§ 1391(b)-(d) and 1400(b). Fujitsu is subject to personal jurisdiction in this District, and therefore is deemed to reside in this District for purposes of venue. Upon information and belief Fujitsu has committed acts within this District giving rise to this action and does business in this District, including but not limited to making sales in this District.

BACKGROUND

A. The Patents-in-suit

11. U.S. Patent No. 6,903,004 titled "Method of Making a Semiconductor Device Having a Low K Dielectric" ("the '004 patent") was duly and legally issued by the

U.S. Patent and Trademark Office on June 7, 2005 after full and fair examination.

Gregory S. Spencer and Michael D. Turner are the named inventors listed on the '004 patent. The '004 patent has been assigned to Plaintiff NSI, and Plaintiff NSI holds all rights, title, and interest in the '004 patent, including the right to collect and receive damages for past, present and future infringements. A true and correct copy of the '004 patent is attached as Exhibit A and made a part hereof.

12. U.S. Patent No. 7,452,750 entitled "Capacitor Attachment Method" ("the '750 patent") was duly and legally issued by the U.S. Patent and Trademark Office on November 18, 2008, after full and fair examination. Wai Yew Io and Chee Seng Foong are the named inventors listed on the '750 patent. The '750 patent has been assigned to Plaintiff NSI, and Plaintiff NSI holds all rights, title, and interest in the '750 patent, including the right to collect and receive damages for past, present and future infringements. A true and correct copy of the '750 patent is attached as Exhibit B and made a part hereof.

13. U.S. Patent No. 6,844,762 entitled "Capacitive Charge Pump" ("the '762 patent") was duly and legally issued by the U.S. Patent and Trademark Office on January 18, 2005 after full and fair examination. Hector Sanchez is the named inventor listed on the '762 patent. The '762 patent has been assigned to Plaintiff NSI, and Plaintiff NSI holds all rights, title, and interest in the '762 patent, including the right to collect and receive damages for past, present and future infringements. A true and correct copy of the '762 patent is attached as Exhibit C and made a part hereof.

14. By assignment, NSI owns all right, title, and interest in and to the '004 patent, the '750 patent and the '762 patent (collectively, “the Patents-in-suit”).

B. Fujitsu's Infringing Conduct

15. On information and belief, Fujitsu makes, uses, offers to sell, and/or sells within, and/or imports into the United States products that incorporate the fundamental technologies covered by the Patents-in-suit. On information and belief, the infringing products include, but are not limited to, semiconductor and semiconductor related products as described herein. By way of example only, Plaintiff identifies below certain infringing products that infringe one or more of the Patents-in-suit herein. On information and belief, similar models of Fujitsu semiconductor or semiconductor related products including processors are believed to infringe as well.

16. By incorporating the fundamental inventions covered by the Patents-in-suit, Fujitsu can make improved products with the features thereof. Upon further information and belief, third-party integrators have purchased and imported Fujitsu infringing products for subsequent sale and use throughout the United States, including within this District. Upon information and belief, third-party consumers use and have used Fujitsu infringing products in the United States, including within this District.

COUNT I

Patent Infringement of U.S. Patent No. 6,903,004

17. Plaintiff repeats and re-alleges each and every allegation of paragraphs 1-16 as though fully set forth herein.

18. The '004 patent is valid and enforceable.

19. Fujitsu has never been licensed, either expressly or impliedly, under the '004 patent.

20. Upon information and belief, Fujitsu has been and is directly infringing under 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, and/or indirectly infringing, by way of inducement with specific intent under 35 U.S.C. § 271(b), at least claim 1 of the '004 patent by making, using, offering to sell, and/or selling to third-party manufacturers, distributors, and/or consumers (directly or through intermediaries and/or subsidiaries) in this District and elsewhere within the United States and/or importing into the United States, without authority, products that were made according to the method of the invention and which method includes all of the limitations of at least claim 1 of the '004 patent, including but not limited to mobile image processing semiconductor products (e.g., Fujitsu Mobile Milbeaut Image Processor Part No. MBG046C) and/or other products made, used, sold, offered for sale, or imported by Fujitsu that were made according to methods using all of the limitations of at least claim 1 of the '004 patent.

21. Upon information and belief, product integrators, distributors and consumers that purchase Fujitsu's products that were made according to a method that includes all of the limitations of at least claim 1 of the '004 patent, including but not limited to mobile image processing semiconductor products (e.g., Fujitsu Mobile Milbeaut Image Processor Part No. MBG046C), also directly infringe, either literally or under the doctrine of equivalents, under 35 U.S.C. § 271(a), the '004 patent by using,

offering to sell, and/or selling infringing products in this District and elsewhere in the United States.

22. Upon information and belief, the third-party manufacturers, distributors, and importers that sell products to Fujitsu that have been made according to a method that includes all of the limitations of at least claim 1 of the '004 patent, also directly infringe, either literally or under the doctrine of equivalents, under 35 U.S.C. § 271(a), the '004 patent by making, offering to sell, and/or selling infringing products in this District and elsewhere within the United States and/or importing infringing products into the United States.

23. Upon information and belief, Fujitsu had knowledge of the '004 patent and its infringing conduct at least since on or about May 11, 2016, when Fujitsu was offered the opportunity to take a license to the '004 patent by letter to Mr. Duncan Tait, CEO of Fujitsu America and Mr. Tatsuya Tanaka, President of Fujitsu Japan.

24. Upon information and belief, since at least the above-mentioned date when Plaintiff formally notified Fujitsu, Fujitsu has actively induced, under U.S.C. § 271(b), third-party manufacturers, distributors, importers and/or consumers to directly infringe at least claim 1 of the '004 patent. Since at least the notice provided on the above-mentioned date, Fujitsu does so with knowledge, or with willful blindness of the fact, that the induced acts constitute infringement of the '004 patent. Upon information and belief, Fujitsu intends to cause infringement by these third-party manufacturers, distributors, importers, and/or consumers. Upon information and belief, Fujitsu has taken affirmative steps to induce their infringement by, *inter alia*, creating advertisements that promote the

infringing use of products, creating established distribution channels for these products into and within the United States, selling these products, manufacturing these products in conformity with U.S. laws and regulations, and/or distributing or making available instructions or manuals for these products to purchasers and prospective buyers.

25. Despite having knowledge of the '004 patent, Fujitsu has specifically intended and continues to specifically intend for persons who acquire and use the products that were made according to the method of at least claim 1 of the '004 patent, including but not limited to mobile image processing semiconductor products (e.g., Fujitsu Mobile Milbeaut Image Processor Part No. MBG046C), including third-party manufacturers, distributors, importers, and/or consumers, to use such devices in a manner that infringes at least claim 1 of the '004 patent. This is evident when Fujitsu encourages and instructs customers and other end users in the use and operation of the products via advertisements and instructional materials.

26. In particular, despite having knowledge of the '004 patent, Fujitsu has provided, and continues to provide, instructional materials, such as user guides, owner manuals, and similar online product support resources (e.g., "Milbeaut Image Signal Processing LSI Chip for Mobile Phones,"

<http://www.fujitsu.com/global/documents/about/resources/publications/fstj/archives/vol4>

[9-1/paper03.pdf](http://www.fujitsu.com/downloads/CN/fss/newsletter/fujitsu45-9-1/paper03.pdf); <http://www.fujitsu.com/downloads/CN/fss/newsletter/fujitsu45->

[en/special-media-coverate/interview/01.html](http://www.fujitsu.com/global/documents/about/resources/publications/fstj/archives/vol4); "Milbeaut ISP for Digital Cameras,"

<http://www.fujitsu.com/global/documents/about/resources/publications/fstj/archives/vol4>

[9-1/paper02.pdf](http://www.fujitsu.com/global/documents/about/resources/publications/fstj/archives/vol4), and other instructional materials and documentation provided or made

available by Fujitsu to customers and other third parties) that specifically teach the customers, other end users and other third parties to use products in an infringing manner. By providing such instructions, Fujitsu knows (and has known), or should know (and should have known), that its actions have, and continue to, actively induce infringement.

27. Upon information and belief, Fujitsu's acts of infringement of the '004 patent have been willful and intentional. Since at least the above-mentioned date of notice, Fujitsu has acted with an objectively high likelihood that its actions constituted infringement of the '004 patent by refusing to take a license and continuing to make and sell its products, including but not limited to mobile image processing semiconductor products (e.g., Fujitsu Mobile Milbeaut Image Processor Part No. MBG046C), and the objectively-defined risk was either known or so obvious that it should have been known.

28. As a direct and proximate result of these acts of patent infringement, Fujitsu has encroached on the exclusive rights of Plaintiff and its licensees to practice the '004 patent, for which Plaintiff is entitled to at least a reasonable royalty.

COUNT II

Patent Infringement of U.S. Patent No. 7,452,750

29. Plaintiff repeats and re-alleges each and every allegation of paragraphs 1-28 as though fully set forth herein.

30. The '750 patent is valid and enforceable.

31. Fujitsu has never been licensed, either expressly or impliedly, under the '750 patent.

32. Upon information and belief, Fujitsu has been and is directly infringing under 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, and/or indirectly infringing, by way of inducement with specific intent under 35 U.S.C. § 271(b), the '750 patent by making, using, offering to sell, and/or selling to third-party manufacturers, distributors, and/or consumers (directly or through intermediaries and/or subsidiaries) in this District and elsewhere within the United States and/or importing into the United States, without authority, products that were made according to the method of at least claim 12 of the '750 patent, including but not limited to power management module semiconductor products (e.g., Fujitsu Power Management Module Part No. MB44C032) and/or other products made, used, sold, offered for sale, or imported by Fujitsu that were made according to methods that include all of the limitations of at least claim 12 of the '750 patent.

33. Upon information and belief, product integrators, distributors and consumers that purchase Fujitsu's products made according to a method that includes all of the limitations of at least claim 12 of the '750 patent, including but not limited to power management module semiconductor products (e.g. Fujitsu Power Management Module Part No. MB44C032), also directly infringe, either literally or under the doctrine of equivalents, under 35 U.S.C. § 271(a), the '750 patent by using, offering to sell, and/or selling infringing products in this District and elsewhere in the United States.

34. Upon information and belief, the third-party manufacturers, distributors, and importers that sell products to Fujitsu that were made according to a method that includes all of the limitations of at least claim 12 of the '750 patent, also directly infringe,

either literally or under the doctrine of equivalents, under 35 U.S.C. § 271(a), the '750 patent by making, offering to sell, and/or selling infringing products in this District and elsewhere within the United States and/or importing infringing products into the United States.

35. Upon information and belief, Fujitsu had knowledge of the '750 patent and its infringing conduct at least since May 11, 2016, when Fujitsu was offered the opportunity to take a license to the '750 patent by letter to Mr. Duncan Tait, CEO of Fujitsu America and Mr. Tatsuya Tanaka, President of Fujitsu Japan.

36. Upon information and belief, Fujitsu's acts of infringement of the '750 patent have been willful and intentional. Since at least the above-mentioned date of notice, Fujitsu has acted with an objectively high likelihood that its actions constituted infringement of the '750 patent by refusing to take a license and continuing to make and sell its products, including but not limited to power management module semiconductor products (e.g., Fujitsu Power Management Module Part No. MB44C032) and the objectively-defined risk was either known or so obvious that it should have been known.

37. As a direct and proximate result of these acts of patent infringement, Fujitsu has encroached on the exclusive rights of Plaintiff and its licensees to practice the '750 patent, for which Plaintiff is entitled to at least a reasonable royalty.

COUNT III
Patent Infringement of U.S. Patent No. 6,844,762

38. Plaintiff repeats and re-alleges each and every allegation of paragraphs 1-37 as though fully set forth herein.

39. The '762 patent is valid and enforceable.

40. Fujitsu has never been licensed, either expressly or impliedly, under the '762 patent.

41. Upon information and belief, Fujitsu has been and is directly infringing under 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, and/or indirectly infringing, by way of inducement with specific intent under 35 U.S.C. § 271(b), the '762 patent by making, using, offering to sell, and/or selling to third-party manufacturers, distributors, and/or consumers (directly or through intermediaries and/or subsidiaries) in this District and elsewhere within the United States and/or importing into the United States, without authority, products that include all of the limitations of at least claim 32 of the '762 patent, including but not limited to semiconductor or semiconductor related switching products (e.g., Fujitsu FLASHWAVE 9500 480GBPS SONET & PACKET SWITCH FABRIC Part. No. FC965SF11) and/or other products made, used, sold, offered for sale, or imported by Fujitsu that include all of the limitations of at least claim 32 of the '762 patent.

42. Upon information and belief, product integrators, distributors and consumers that purchase Fujitsu's products that include all of the limitations of at least claim 32 of the '762 patent, including but not limited to semiconductor and semiconductor related switching products (e.g., Fujitsu FLASHWAVE 9500 480GBPS SONET & PACKET SWITCH FABRIC Part. No. FC965SF11), also directly infringe, either literally or under the doctrine of equivalents, under 35 U.S.C. § 271(a), the '762

patent by using, offering to sell, and/or selling infringing products in this District and elsewhere in the United States.

43. Upon information and belief, the third-party manufacturers, distributors, and importers that sell products to Fujitsu that include all of the limitations of at least claim 32 of the '762 patent, also directly infringe, either literally or under the doctrine of equivalents, under 35 U.S.C. § 271(a), the '762 patent by making, offering to sell, and/or selling infringing products in this District and elsewhere within the United States and/or importing infringing products into the United States.

44. Upon information and belief, Fujitsu had knowledge of the '762 patent and its infringing conduct at least since May 11, 2016, when Fujitsu was offered the opportunity to take a license to the '762 patent by letter to Mr. Duncan Tait, CEO of Fujitsu America, and Mr. Tatsuya Tanaka, President of Fujitsu Japan.

45. Upon information and belief, since at least the above-mentioned date when Plaintiff formally notified Fujitsu, Fujitsu has actively induced, under U.S.C. § 271(b), third-party manufacturers, distributors, importers and/or consumers to directly infringe at least claim 32 of the '762 patent. Since at least the notice provided on the above-mentioned date, Fujitsu does so with knowledge, or with willful blindness of the fact, that the induced acts constitute infringement of the '762 patent. Upon information and belief, Fujitsu intends to cause infringement by these third-party manufacturers, distributors, importers, and/or consumers. Upon information and belief, Fujitsu has taken affirmative steps to induce their infringement by, *inter alia*, creating advertisements that promote the infringing use of products, creating established distribution channels for these products

into and within the United States, selling these products, and manufacturing these products in conformity with U.S. laws and regulations, and/or distributing or making available instructions or manuals for these products to purchasers and prospective buyers.

46. Despite having knowledge of the '762 patent, Fujitsu has specifically intended and continues to specifically intend for persons who acquire and use the products that include all of the limitations of at least claim 32 of the '762 patent, including but not limited to semiconductor and semiconductor related switching products (e.g., Fujitsu FLASHWAVE 9500 480GBPS SONET & PACKET SWITCH FABRIC Part. No. FC965SF11), including third-party manufacturers, distributors, importers, and/or consumers, to use such devices in a manner that infringes at least claim 32 of the '762 patent. This is evident when Fujitsu encourages and instructs customers and other end users in the use and operation of the products via advertisements and instructional materials.

47. In particular, despite having knowledge of the '004 patent, Fujitsu has provided, and continues to provide, instructional materials, such as user guides, owner manuals, and similar online product support resources (e.g., "FLASHWAVE 9500 Packet ONP," <http://www.fujitsu.com/us/products/network/products/flashwave-9500/index.html>; "FLASHWAVE 9500 Packet Optical Networking," <http://www.fujitsu.com/us/Images/flashwave9500.pdf>; "FLASHWAVE 9500 – The Definitive Packet Optical Networking Platform," <http://www.fujitsu.com/us/Images/FLASHWAVE9500wp.pdf>; and other instructional materials and documentation provided or made available by Fujitsu to customers and

other third parties) that specifically teach the customers, other end users and other third parties to use products in an infringing manner. By providing such instructions, Fujitsu knows (and has known), or should know (and should have known), that its actions have, and continue to, actively induce infringement.

48. Upon information and belief, Fujitsu's acts of infringement of the '762 patent have been willful and intentional. Since at least the above-mentioned date of notice, Fujitsu has acted with an objectively high likelihood that its actions constituted infringement of the '762 patent by refusing to take a license and continuing to make and sell its products, including but not limited to semiconductor and semiconductor related switching products (e.g., Fujitsu FLASHWAVE 9500 480GBPS SONET & PACKET SWITCH FABRIC Part. No. FC965SF11), and the objectively-defined risk was either known or so obvious that it should have been known.

49. As a direct and proximate result of these acts of patent infringement, Fujitsu has encroached on the exclusive rights of Plaintiff and its licensees to practice the '762 patent, for which Plaintiff is entitled to at least a reasonable royalty.

CONCLUSION

50. Plaintiff is entitled to recover from Fujitsu the damages sustained by Plaintiff as a result of Fujitsu's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court.

51. Plaintiff has incurred and will incur attorneys' fees, costs, and expenses in the prosecution of this action. The circumstances of this dispute create an exceptional

case within the meaning of 35 U.S.C. § 285, and Plaintiff is entitled to recover its reasonable and necessary attorneys' fees, costs, and expenses.

JURY DEMAND

52. Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

Plaintiff respectfully requests that the Court find in its favor and against Fujitsu, and that the Court grants Plaintiff the following relief:

- A. A judgment that Fujitsu has infringed the Patents-in-suit as alleged herein, directly and/or indirectly by way of inducing infringement of such patents;
- B. A judgment for an accounting of all damages sustained by Plaintiff as result of the acts of infringement by Fujitsu;
- C. A judgment and order requiring Fujitsu to pay Plaintiff damages under 35 U.S.C. § 284, including up to treble damages for willful infringement of the Patents-in-suit patents as provided by 35 U.S.C. § 284, and any royalties determined to be appropriate;
- D. A permanent injunction enjoining Fujitsu and its officers, directors, agents, servants, employees, affiliates, divisions, branches, subsidiaries, parents and all others acting in concert or privity with them from direct and/or indirect infringement of the Patents-in-suit pursuant to 35 U.S.C. § 283;

- E. A judgment and order requiring Fujitsu to pay Plaintiff pre-judgment and post judgment interest on the damages awarded; and
- F. Such other and further relief as the Court deems just and equitable.

Dated: May 13, 2016

Respectfully submitted,

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