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7 Isothermal Systems Research, Inc.

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MAR 06 2002

JAMES P. BARRETT, CLERK  
DEPUTY  
SPOKANE, WASHINGTON

8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF WASHINGTON

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11 **ISOTHERMAL SYSTEMS  
12 RESEARCH, INC.,**

13 **Plaintiff,**

14 **- against -**

15 **CRAY, INC.**

16 **Defendant.**  
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CS <sup>N</sup> 02-0087-EFS

COMPLAINT

(Demand for Jury)

17 Plaintiff, Isothermal Systems Research, Inc., states and alleges:

18 **PARTIES**

19 1. Plaintiff, Isothermal Systems Research, Inc. ("Isothermal"), is a  
20 corporation organized and existing under the laws of the State of Washington, with  
21 its principal place of business at 511 Third Street, Clarkston, Washington 99403.

22 2. Upon information and belief, Defendant, Cray, Inc. ("Cray"), is a  
23 corporation and has a principal place of business at 411 First Avenue South, Suite  
24 600, Seattle, Washington 98104.



**JURISDICTION**

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2 3. This is an action for, among other causes, patent infringement, and  
3 the patent laws of the United States.

4 4. This court has jurisdiction under 28 U.S.C. §1331 and 1338(a).

5 5. In addition to the foregoing, the court has supplemental jurisdiction  
6 under 28 U.S.C. §1367(a); claims presented herein are so related to the claims in  
7 the section within the original jurisdiction that they form part of the same case or  
8 controversy under Article III of the United States Constitution. Such related claim  
9 include the improper use of misappropriated trade secrets and unjust enrichment  
10 related to the technologies embodied in the Patents in Suit.

11 6. Venue is appropriate under 28 U.S.C. §1391(b).

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13 **FACTUAL BACKGROUND**

14 7. Isothermal has been a pioneer in evaporative spray cooling research  
15 and product development for many years, and has obtained numerous patents,  
16 among which are the following Patents in Suit:

- 17 (A) U.S. Patent No. 5,220,804 (the "804 Patent"), for a "High he  
18 Flux Evaporative Spray Cooling" system;
- 19 (B) U.S. Patent No. 5,860,602 (the "602 Patent") for a "Laminat  
20 Array of Pressure Swirl Atomizers"; and
- 21 (C) U.S. Patent No. 6,016,969 (the "969 Patent"), for a  
22 "Laminated Array of Pressure Swirl Atomizers".

23 Each of the Patents in Suit have been duly issued, properly maintained an  
24 are in full force and effect.

25 8. Isothermal Confidential Information as used herein, shall include  
26 without limitation, trade secrets, confidential information, evaporative spray coolir  
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1 technology, drawings, spray cooling modules and other components, and other  
2 proprietary information and know how.

3 9. As a result of Isothermal's expertise in the field of evaporative spray  
4 cooling and Isothermal's Confidential Information, Silicon Graphics, Inc.  
5 approached Isothermal to assist it in developing an evaporative spray cooling  
6 system for a Silicon Graphics supercomputer product being developed through the  
7 National Security Agency. Conventional air cooling is insufficient to cool the  
8 processors of the supercomputers. Silicon Graphics had previously purchased  
9 the business of Cray Research, Inc., a company in the business of supercomputer  
10 research and development. Silicon Graphics, like Cray Research before it, had  
11 not previously developed evaporative spray cooling systems.

12 10. In 1998 Isothermal and Silicon Graphics entered non-disclosure  
13 agreement, and later, a "SNV2 Product Development Agreement" (the "Silicon  
14 Graphics Agreement").

15 11. The Silicon Graphics Agreement contained, among other provisions,  
16 a manufacturing clause. It was under the agreements with Silicon Graphics that  
17 Isothermal disclosed the Isothermal Confidential Information to the Cray Research  
18 division of Silicon Graphics. Silicon Graphics improperly breached the Silicon  
19 Graphics Agreement and terminated Isothermal, and later informed Isothermal  
20 and/or others, that it did not intend to further pursue evaporative spray cooling for  
21 its products.

22 12. In approximately March of 2000, Tera Computer Company  
23 purchased the Cray Research division assets from Silicon Graphics, and also  
24 assumed certain liabilities, related to the spray cooling technology. Tera Computer  
25 hired/retained many or most of the Cray Research division's employees.

26 13. In April of 2000, the Tera Computer Company changed its corporate  
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1 name to Cray Inc.

2 14. Based upon information and belief, Tera Computer/Cray, Inc.  
3 received assets and other information (tangible and through employees it hired)  
4 from Silicon Graphics, which constitute or embody the Isothermal Confidential  
5 Information. Cray, Inc., is currently utilizing the Isothermal Confidential  
6 Information.

7 15. From recent information available on Cray's website, along with  
8 articles published and presented by Cray representatives, Cray has in fact move  
9 forward with an evaporative spray cooling system which includes pre-existing  
10 technology protected by the Patents in Suit, and further includes Isothermal  
11 Confidential Information. The technical papers are further misleading in purportir  
12 to represent the work or technology of Cray, and improperly disclose Isothermal  
13 Confidential Information.

14 16. Cray, Inc.'s evaporative spray cooling systems, infringe the Patents  
15 in Suit, without license, permission or consent from Isothermal..

16 17. Cray, Inc.'s use of the Isothermal Confidential Information, is the us  
17 of misappropriated trade secrets, in breach of non-disclosure agreements and th  
18 improper use of information which Cray Inc. representatives knew was confidenti  
19 and proprietary; and accordingly, Cray Inc. has been unjustly enriched.

**FIRST CAUSE OF ACTION**

**CLAIM FOR PATENT INFRINGEMENT ("804 Patent)**

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3 18. Isothermal is the owner of the entire right, title and interest in and to  
4 United States Patent No. 5,220,804 (the "804 Patent"), for a "High heat Flux  
5 Evaporative Spray Cooling" system. The Patent duly and legally issued on June  
6 22, 1993 and it has been legally maintained and is in full force and effect. A copy  
7 of the Patent is attached hereto as Exhibit 1.

8 19. Upon information and belief, defendant Cray has made, sold, offered  
9 for sale, and/or used in the United States an evaporative spray cooling system that  
10 infringes the '804 Patent.

11 20. Upon information and belief, Cray has committed acts which  
12 constitute active inducement and contributory infringement of the Patent.

13 21. Cray has had actual knowledge of the Patent. Cray's infringement of  
14 the '804 Patent, including its active inducement and contributory infringement  
15 thereof, has been and continues to be willful and deliberate.

16 22. Isothermal has been damaged by Cray's infringement of the Patent  
17 and will continue to be damaged in the future unless Cray is enjoined from  
18 infringing the Patent, in amounts to be proven at trial.

**SECOND CAUSE OF ACTION**

**CLAIM FOR PATENT INFRINGEMENT ('602 Patent)**

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3 23. Isothermal is the owner of the entire right, title and interest in and to  
4 United States Patent No. 5,860,602 (the "'602 Patent'"), for a "Laminated Array of  
5 Pressure Swirl Atomizers". The Patent duly and legally issued on January 19,  
6 1999 and it has been legally maintained and is in full force and effect. A copy of  
7 the Patent is attached hereto as Exhibit 2.

8 24. Upon information and belief, defendant Cray has made, sold, offered  
9 for sale, and/or used in the United States a Laminated Array of Pressure Swirl  
10 Atomizers that infringes the '602 Patent.

11 25. Upon information and belief, Cray has committed acts which  
12 constitute active inducement and contributory infringement of the Patent.

13 26. Cray has had actual knowledge of the Patent. Cray's infringement of  
14 the '602 Patent, including its active inducement and contributory infringement  
15 thereof, has been and continues to be willful and deliberate.

16 27. Isothermal has been damaged by Cray's infringement of the Patent  
17 and will continue to be damaged in the future unless Cray is enjoined from  
18 infringing the Patent, in amounts to be proven at trial.

1 **THIRD CAUSE OF ACTION**

2 **CLAIM FOR PATENT INFRINGEMENT ('969 Patent)**

3 28. Isothermal is the owner of the entire right, title and interest in and to  
4 United States Patent No. 6,016,969 (the "'969 Patent"), for a "Laminated Array of  
5 Pressure Swirl Atomizers". The Patent duly and legally issued on January 25,  
6 2000 and it has been legally maintained and is in full force and effect. A copy of  
7 the Patent is attached hereto as Exhibit 3.

8 29. Upon information and belief, defendant Cray has made, sold, offered  
9 for sale, and/or used in the United States a Laminated Array of Pressure Swirl  
10 Atomizers that infringes the '969 Patent.

11 30. Upon information and belief, Cray has committed acts which  
12 constitute active inducement and contributory infringement of the Patent.

13 31. Cray has had actual knowledge of the Patent. Cray's infringement of  
14 the '969 Patent, including its active inducement and contributory infringement  
15 thereof, has been and continues to be willful and deliberate.

16 32. Isothermal has been damaged by Cray's infringement of the Patent  
17 and will continue to be damaged in the future unless Cray is enjoined from  
18 infringing the Patent, in amounts to be proven at trial.

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20 **FOURTH CAUSE OF ACTION**

21 **USE OF MISAPPROPRIATED TRADE SECRETS**

22 33. Prior to a working relationship or agreement being entered between  
23 Isothermal and Silicon Graphics, Isothermal had significant and numerous trade  
24 secrets which had substantial value because they were not generally known in the  
25 industry. Despite agreeing not to disclose said trade secrets, Silicon Graphics and  
26 Cray have in fact disclosed said trade secrets in violation of one or more

1 agreements in place with Isothermal. Cray employs many or most of the same  
2 personnel involved on behalf of Silicon Graphics, who were and are aware of the  
3 trade secrets, confidential and proprietary nature of the information.

4 34. As a direct and proximate result of the misappropriation, use and  
5 disclosure of Isothermal's trade secrets, proprietary and confidential information,  
6 and the breach of the non-disclosure covenants, Isothermal has been damaged in  
7 an amount to be proven at trial, and Cray has been unjustly enriched.

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9 **FIFTH CAUSE OF ACTION**

10 **UNJUST ENRICHMENT**

11 35. Cray, by receiving and using, Isothermal designs, trade secrets,  
12 confidential and proprietary information, has been unjustly enriched.

13 36. As a direct and proximate result of the unjust enrichment of Cray,  
14 Cray has been unjustly enriched and benefitted, and Isothermal has been  
15 damaged, in ways and in an amount to be proven at trial.

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17 **PRAYER FOR RELIEF**

18 Isothermal respectfully requests the following relief:

- 19 (a) Judgment that Cray has infringed each of the Patents in Suit;  
20 (b) Judgment and order preliminarily and permanently enjoining Cray, its  
21 officers, directors, agents, servants, employees, attorneys, and all  
22 others acting under or through it, directly or indirectly, from directly or  
23 indirectly infringing the Patents in suit;  
24 (c) Judgment that Cray shall pay damages, including treble damages,  
25 for willful infringement, with interest;  
26 (d) Judgment that Cray shall pay the costs of this action, including  
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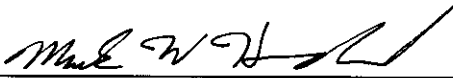
reasonable attorney fees and all other disbursements, pursuant to 35 U.S.C. §285, and other statutory sections;

- (e) Judgment that Cray has misappropriated and/or used misappropriated trade secrets of Isothermal;
- (f) Judgment that Cray has been unjustly enriched by the receipt, use and disclosure of the Isothermal Confidential Information; and
- (g) Such further and other relief that the court deems just and equitable.

**DEMAND FOR JURY TRIAL**

Isothermal demands a trial by jury of all issues so triable.

Respectfully submitted,  
ISOTHERMAL SYSTEMS RESEARCH, INC.

By:   
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