

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

e-TOOL DEVELOPMENT, INC., and	§	
e-TOOL PATENT HOLDINGS CORP.,	§	Civil Action No.:
	§	2:08-cv-196
Plaintiffs,	§	
	§	Jury Trial Demanded
v.	§	
	§	
NATIONAL SEMICONDUCTOR	§	
CORPORATION,	§	
<u>Defendant.</u>	§	

SECOND AMENDED COMPLAINT

For their Complaint, Plaintiffs, eTool Development, Inc. (“eTool Development”) and eTool Patent Holdings Corp. (“eTool Holdings”), allege as follows:

JURISDICTION AND VENUE

1. This action arises under the United States patent laws, codified at 35 U.S.C. §§1 et seq.
2. This Court has exclusive subject matter jurisdiction over this action under 28 U.S.C. §§1331 and 1338(a).
3. This Court has personal jurisdiction over National Semiconductor Corporation (“National”) because National has a regular and established place of business in Texas and has transacted business in Texas, and, on information and belief, has committed acts of infringement, and is continuing to commit acts of infringement, in Texas.
4. Venue is proper in this District, pursuant to 28 U.S.C. §§1391(b), 1391(c) and 1400(b).

THE PARTIES

5. Plaintiff, eTool Development is a corporation organized and existing under the laws of the State of Delaware with a registered address at 1209 Orange Street, Wilmington, DE 75201.

6. Plaintiff, eTool Holdings, is a corporation organized and existing under the laws of the State of Texas with a registered address at 350 N. Paul Street, Dallas, TX 75201. eTool Holdings is a wholly owned subsidiary of eTool Development.

7. On information and belief, Defendant National is a Delaware corporation with a principal place of business at 2900 Semiconductor Drive, Santa Clara, CA, 95052-8090. On information and belief, National has a physical presence in, and has conducted business within, the State of Texas.

COUNT ONE

The 919 Patent (the patent in suit)

8. On September 26, 2006, U.S. Patent No. 7,113,919 B1 entitled “System and Method for Configuring Products over a Communications Network” was duly and lawfully issued by the U.S. Patent and Trademark Office to Eric W. Norris and Walter C. DeSouza (“the 919 patent”). A true and correct copy of the 919 patent is attached as Exhibit A.

9. eTool Holdings owns all right, title and interest to the 919 patent, subject to an exclusive license to eTool Development, which includes the right of eTool Development to bring suit for infringement of the 919 patent. Together, eTool Development and eTool Holdings (collectively “eTool”) have the right to exclude others from making, using, selling, importing and offering for sale systems and methods covered by the 919 patent, the right to bring actions

for infringement of the 919 patent, the right to demand and collect damages for infringement of the 919 patent, and the right to obtain injunctive relief for infringement of the 919 patent.

National's Infringement of the 919 Patent

10. eTool repeats and re-alleges paragraphs 1 through 9 above, as if fully set forth herein.

11. On information and belief, National hosts, owns and/or operates, and/or directs others to host or operate, servers that provide a collection of HTML-based or Flash version, on-line circuit design tools under the name WEBENCH, including the WEBENCH Power tool, the WEBENCH PLL and VCO's tool (a/k/a the WEBENCH Wireless Tool or the WEBENCH PLL Tool), the WEBENCH Amplifiers tool, the WEBENCH Active Filters tool (a/k/a the WEBENCH Filter Tool), the WEBENCH Audio tool, the WEBENCH Signal-Path Designer tool, the WEBENCH LED tool, the WEBENCH Interface tool, and the WEBENCH Sensor tools (collectively "the WEBENCH tools").

12. On information and belief, National has directly infringed and is continuing to directly infringe the 919 patent, literally and/or under the doctrine of equivalents, by making, using, selling, offering for sale and/or importing the WEBENCH tools. Accordingly, National is a direct infringer of the 919 patent under 35 U.S.C. §271(a).

13. On information and belief, National has indirectly infringed the 919 patent by inducing others to use the WEBENCH tools, and National's acts of inducement have resulted in actual direct infringement of the 919 patent by others. Accordingly, National is an indirect infringer of the 919 patent under 35 U.S.C. § 271(b).

14. National's acts of infringement have caused damage to eTool, and eTool is entitled to recover from National damages sustained as a result of National's infringement of the 919 patent.

15. On information and belief, National's infringing activities have been and are willful, entitling eTool to treble damages. National's infringement warrants a finding that this is an exceptional case, entitling eTool to recover their attorney fees and expenses.

JURY DEMAND

eTool demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, eTool prays for relief as follows:

(a) Judgment that National has directly infringed, and induced others to infringe, the 919 patent and is liable as an infringer under 35 U.S.C. §§ 271(a) and (b);

(b) Judgment that National's infringement has been and continues to be willful;

(c) A permanent injunction enjoining National and its officers, directors, employees, agents, consultants, contractors and all others acting in privity with National from further direct infringement of the 919 patent, and/or from inducing others to infringe the 919 patent;

(d) An award to eTool Development and eTool Holdings of damages adequate to compensate them for the infringement of the 919 patent by National, in an amount to be proven at trial, together with pre-judgment and post-judgment interest and costs, as fixed by the Court;

(e) Trebling the damages due to National's willful infringement, pursuant to 35 U.S.C. § 284;

(f) A finding that, with respect to National, this case has been exceptional, and an award to eTool Development and eTool Holdings of their reasonable costs and attorney fees pursuant to 35 U.S.C. § 285; and,

(g) An award of such other and further relief as the Court may deem just.

Respectfully submitted,

/s/ Richard A. Sayles _____

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ATTORNEYS FOR PLAINTIFFS

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). Any other counsel of record will be served by facsimile transmission and/or first class mail this 8th day of June, 2010.

/s/ Richard A. Sayles