

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

Tadahiro Ohmi	)	
	)	
Plaintiff,	)	
	)	
v.	)	<b>C.A. No. 2-05CV-209 TJW</b>
	)	
Intel Corporation,	)	<b>JURY TRIAL DEMANDED</b>
International Business Machines Corporation,	)	
Micron Technology, Inc.,	)	
Samsung Electronics Co., Ltd.,	)	
Samsung Electronics America, Inc., and	)	
Samsung Semiconductor, Inc.,	)	
	)	
Defendants.	)	

**FIRST AMENDED COMPLAINT**

Now comes Plaintiff Foundation for Advancement of International Science is the successor-in-interest to Tadahiro Ohmi before this Court and alleges as its complaint and petition for relief:

**PARTIES**

1. Plaintiff and Successor-in-Interest Foundation for Advancement of International Science ("Foundation") is a Japanese corporation with its principal place of business at 586-9, Ushigafuchi Akatsuka, Tsukuba-city, Ibaraki prefecture, 305-0062 Japan.
2. Upon information and belief, Defendant Intel Corporation ("Intel") is a Delaware corporation, has offices located at 2200 Mission College Boulevard, Santa Clara, California 95052, and is registered to do business in the State of Texas. Intel's registered agent in Texas is CT Corporation System, 350 N. St. Paul Street, Dallas, Texas 75201.
3. Upon information and belief, Defendant International Business Machines

Corporation (“IBM”) is a New York corporation, has offices located at 1 New Orchard Road, Armonk, New York 10504, and is registered to do business in the State of Texas. IBM’s registered agent in Texas is CT Corp System, 350 N. St. Paul Street, Dallas, Texas 75201.

4. Upon information and belief, Defendant Micron Technology, Inc. (“Micron”) is a Delaware corporation and has offices located at 8000 S. Federal Way, Boise, Idaho 83716.

5. Upon information and belief, Defendant Samsung Electronics Co., Ltd. (Samsung Electronics) is a Korean corporation and has offices at 250 2-ga Taepyung-ro, Jung-gu, Seoul 100-742, Korea.

6. Upon information and belief, Defendant Samsung Electronics America, Inc. (“Samsung America”) is a New York corporation, has offices located at 105 Challenger Road, Ridgefield Park, New Jersey 07660, and is registered to do business in the State of Texas. Samsung America’s registered agent in Texas is CT Corporation System, 350 N. St. Paul Street, Dallas, Texas 75201.

7. Upon information and belief, Defendant Samsung Semiconductor, Inc. (“Samsung Semiconductor”) is a California corporation, has offices located at 3655 N 1<sup>st</sup> Street, San Jose, California 95134, and is registered to do business in the State of Texas. Samsung Semiconductor’s registered agent in Texas is National Registered Agents, Inc., 1614 Sidney Baker Street, Kerrville, Texas 78028.

#### **JURISDICTION AND VENUE**

8. This claim arises under the Patent Laws of the United States, 35 U.S.C. §101 *et seq.*, in that it is a claim for infringement of a United States patent. The jurisdiction of this Court is founded upon 28 U.S.C. § 1338(a).

9. This Court has personal jurisdiction over each Defendant. Upon information and

belief, each Defendant has conducted and does conduct business within the State of Texas. Upon information and belief, each Defendant, directly or through intermediaries (including distributors, retailers, and others), ships, distributes, offers for sale, sells, and advertises (including the provision of an interactive web page) its products in the United States, the State of Texas, and the Eastern District of Texas. Upon information and belief, each Defendant has purposefully and voluntarily placed one or more of its infringing products into the stream of commerce with the expectation that they will be purchased by consumers in the Eastern District of Texas. Upon information and belief, these infringing products have been and continue to be purchased by consumers in the Eastern District of Texas. Upon information and belief, each Defendant has committed the tort of patent infringement within the State of Texas and, more particularly, within the Eastern District of Texas.

10. Venue within this District is proper under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

#### **COUNT 1: PATENT INFRINGEMENT**

11. The allegations of paragraphs 1-10 are incorporated herein by reference.

12. Plaintiff Foundation is the sole owner by of United States Patent No. 4,984,060 (“the ‘060 patent”) issued on January 8, 1991 and entitled Semiconductor Device Wirings with Hillocks. A copy of the ‘060 patent is attached as Exhibit A.

13. The ‘060 patent discloses and claims a semiconductor device comprising metal wirings including hillocks on surfaces thereof, an interlayer insulating film disposed over the metal wirings, and a relationship between the minimum line width of the metal wirings, the thickness of the interlayer insulating film, and the height of the hillocks.

14. Upon information and belief, Defendants Intel, IBM, Micron, Samsung

Electronics, Samsung America, and Samsung Semiconductor have infringed, and if not enjoined will continue to infringe, one or more claims of the '060 patent by performing, without authority, one or more of the following acts: (a) making, using, offering for sale, or selling within the United States the invention of one or more claims of the '060 patent, in violation of 35 U.S.C. § 271(a); (b) importing into the United States the invention of one or more claims of the '060 patent, in violation of 35 U.S.C. § 271(a); (c) inducing infringement of one or more claims of the '060 patent, in violation of 35 U.S.C. § 271(b); and (d) contributing to infringement of one or more claims of the '060 patent, in violation of 35 U.S.C. § 271(c) (the "acts of infringement").

15. Further upon information and belief, Defendants Intel, IBM, Micron, Samsung Electronics, Samsung America, and Samsung Semiconductor's acts of infringement of the '060 patent were, in whole or in part, done willfully and with knowledge of the '060 patent.

16. A prior owner of the '060 patent provided notice of infringement to Intel in a letter from counsel dated March 5, 2004, to IBM in a letter from counsel dated March 24, 2004, to Micron in a letter from counsel dated February 5, 2004, and to Samsung Electronics, Samsung America, and Samsung Semiconductor in a letter from counsel dated April 30, 2004.

#### **JURY DEMAND**

Plaintiff Foundation hereby demands a jury trial on all issues triable to a jury.

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiff Foundation petitions this Court and requests that a judgment be entered and relief be granted as follows:

A. Declaring that each of the Defendants Intel, IBM, Micron, Samsung Electronics, Samsung America, and Samsung Semiconductor has infringed the '060 patent as alleged herein (directly, by inducement, and/or contributorily);

B. Preliminarily and permanently enjoining, restraining, and prohibiting Defendants Intel, IBM, Micron, Samsung Electronics, Samsung America, and Samsung Semiconductor and any party acting through, for, or in concert with Defendants Intel, IBM, Micron, Samsung Electronics, Samsung America, and Samsung Semiconductor from further infringing (directly, by inducement, or contributorily) any claim of the '060 patent;

C. Awarding to Plaintiff Foundation such monetary or compensatory damages as may be found or deemed adequate to fully compensate Plaintiff Foundation for any of Defendants Intel, IBM, Micron, Samsung Electronics, Samsung America, and Samsung Semiconductor's acts of infringement occurring prior to such judgment and/or any other injury suffered by Plaintiff Foundation due to Defendants Intel, IBM, Micron, Samsung Electronics, Samsung America, and Samsung Semiconductor's acts of infringement;

D. Declaring Defendants Intel, IBM, Micron, Samsung Electronics, Samsung America, and Samsung Semiconductor's conduct to have been willful, and trebling such award of monetary or compensatory damages;

E. Declaring this to be an exceptional case within the meaning of 35 U.S.C. § 285, and awarding Plaintiff Foundation its attorneys' fees;

F. Awarding to Plaintiff Foundation its costs; and

G. Awarding to Plaintiff Foundation such other, further, or general relief as this Court may deem proper.

Respectfully submitted

/S/ Guy N. Harrison  
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