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13 Attorneys for Intervenor
14 POWERCHIP SEMICONDUCTOR CORPORATION

15
16 **IN THE UNITED STATES DISTRICT COURT**
17 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

18
19 MICRON TECHNOLOGY, INC.,

20 Plaintiff,

21 v.

22 MOSAID TECHNOLOGIES INCORPORATED,

23 Defendant.

Case No.: 5:06-CV-04496-JF

**POWERCHIP'S FIRST AMENDED
COMPLAINT IN INTERVENTION
FOR: DECLARATION OF
NONINFRINGEMENT, INVALIDITY,
UNENFORCEABILITY, AND/OR
LICENSE**

DEMAND FOR JURY TRIAL

1 Intervenor Powerchip Semiconductor Corporation. hereby alleges for its Complaint-in-
2 Intervention, on personal knowledge regarding its own activities and on information and belief
3 regarding the activities of others, as follows:

4 **PARTIES**

5 1. Powerchip is a corporation organized under the laws of Taiwan, R.O.C., with its
6 principal place of business at No. 12, Li-Hsin Road 1, Hsinchu Science Park, Hsinchu, Taiwan,
7 R.O.C. Powerchip is engaged in the business of manufacturing and selling dynamic random access
8 memories (DRAMs).

9 2. MOSAID is a foreign corporation with its principal place of business at 11 Hines
10 Road, Kanata, Ontario K2K 2X1, Canada. Upon information and belief, MOSAID's primary
11 business is licensing and enforcing patents whose claims purportedly cover semiconductor
12 technology.

13 3. Micron is a Delaware corporation with its principal place of business in Boise, Idaho.
14 Upon information and belief, Micron is engaged in the business of designing, manufacturing and
15 selling semiconductor products.

16 **JURISDICTION AND VENUE**

17 4. Powerchip's claims against MOSAID arise under Title 35 of the United States Code.
18 The Court has subject matter jurisdiction over these Counterclaims pursuant to 28 U.S.C. §§ 1331,
19 1338(a), 2201, and 2202.

20 5. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400, because,
21 among other reasons, MOSAID is an alien corporation subject to jurisdiction in any venue in which
22 jurisdiction is proper. MOSAID is subject to personal jurisdiction in this district because, among
23 other reasons, it has purposefully directed activities to this district, maintains an office in this district,
24 and has general and systematic contacts with this district.

25 **INTRADISTRICT ASSIGNMENT**

26 6. Pursuant to Northern District Local Rules 3-5(b) and 3-2(c), this action is properly
27 assigned to the San Jose Division of the Northern District Court on the basis that a substantial part of
28 the events or omissions which give rise to the claims herein occurred within this county.

BACKGROUND

1
2 7. Powerchip incorporates and realleges the allegations set forth in the paragraphs above
3 as if set forth fully herein.

4 8. Upon information and belief, MOSAID is a patent holding company that acquires and
5 licenses patents in the area of dynamic random access memory (DRAM).

6 9. Between 2001 and 2005, MOSAID systematically filed, litigated, and ultimately
7 settled patent infringement actions against Samsung Electronics Company, Ltd., Hynix
8 Semiconductor, Inc., and Infineon Technologies North America Corporation, all DRAM product
9 manufacturers.

10 10. Micron filed the present declaratory judgment action against MOSAID on July 24,
11 2006, seeking a declaratory judgment of patent non-infringement and invalidity of fourteen patents:
12 U.S. Patent Nos. 5,214,602; 5,751,643; 5,822,253, 6,278,640; and 6,603,703 (collectively referred to
13 as the “Lines Family Patents); U.S. Patent Nos. 5,824620; 6,055,201; 6,236,581 and 6,580,654
14 (collectively referred to as the “Foss Family Patents”); U.S. Patent Nos. 6,067,272, 6,657,919 ,
15 6992,950 (collectively referred to as the “DLL Family Patents”); and U.S. Patent Nos. 6,056,676 and
16 RE37,641. The fourteen patents will be referred to herein as the “California patents-in-suit.”

17 11. Upon information and belief, MOSAID is the assignee and owner of the California
18 patents-in-suit.

19 12. On July 25, 2006, MOSAID filed a patent infringement suit against defendants
20 Micron and Powerchip in the Eastern District of Texas, alleging infringement of U.S. Patent Nos.
21 5,751,253; 5,822,253; 6,278,640; 6,603,703; and 7,038,927 (all of which are the same as or related
22 to the Lines Family Patents); U.S. Patent No. 5,406,523; 5,828,520; 6,236,581, and 6,980,448 (all of
23 which are the same as or related to the Foss Family Patents);and U.S. Patent Nos. 6,657,919 and
24 6,992,950 (all of which are the same as or related to the DLL Family Patents). These eleven patents
25 will be referred to herein as the “Texas patents-in-suit.”

26 13. MOSAID alleges that it is the assignee and owner of the Texas patents-in-suit.

27 14. On October 23, 2006 this Court dismissed Micron’s declaratory relief action for lack
28 of subject matter jurisdiction.

1 15. On February 29, 2008, the Federal Circuit reversed the dismissal, and remanded the
2 case to this Court for judgment on the merits. The Federal Circuit's mandate issued on April 14,
3 2008.

4 16. Powerchip has denied infringement and has sought a declaration of noninfringement,
5 invalidity and unenforceability of the Texas patents-in-suit.

6 17. Because of the overlap between the Texas patents-in-suit and the California patents-
7 in-suit, at least the background technology, claim construction, validity, and enforceability of the
8 patents are issues common to both the Texas case and this action.

9 18. In its Second Amended Complaint in the Texas action, MOSAID alleges direct and
10 indirect infringement of the Texas patents-in-suit and names Powerchip as a defendant. Therefore, a
11 valid and justiciable controversy has arisen and exists between MOSAID and Powerchip within the
12 meaning of 28 U.S.C. § 2201. Powerchip desires a judicial determination and declaration of the
13 respective rights of the parties regarding the Texas patents-in-suit.

14 19. On July 2, 2008, the Eastern District of Texas transferred the Texas action to this
15 District.

16 20. On July 28, 2008, Micron filed its First Amended Complaint for declaratory judgment
17 in this action.

18 21. Under these circumstances, a judicial declaration of non-infringement, invalidity, and
19 unenforceability is necessary and appropriate to resolve this controversy.

20 **COUNT I**

21 **(Declaration of Noninfringement, Invalidity, Unenforceability, and License of**
22 **U.S. Patent No. 6,657,919)**

23 22. Powerchip incorporates and realleges the allegations set forth in the paragraphs above
24 as if set forth fully herein.

25 23. U.S. Patent No. 6,657,919 (the "'919 patent") was filed on January 17, 2003 and
26 issued on December 2, 2003. The named inventors of the '919 patent are Richard C. Foss, Peter B.
27 Gillingham and Graham Allan. A copy of the '919 patent is attached hereto as Exhibit A.
28

1 24. Powerchip has not infringed and is not now infringing, directly or indirectly, any
2 valid claim of the '919 patent, either literally or under the doctrine of equivalents.

3 25. The '919 patent is invalid because it fails to meet the requirements for patentability as
4 set forth in 35 U.S.C. §§ 102, 103, 112 and/or other section set forth in Title 35 of the United States
5 Code.

6 26. MOSAID is barred from asserting infringement by Powerchip of the '919 patent
7 because Powerchip is licensed to make products covered by the '919 patent pursuant to the terms of
8 license agreement(s) between MOSAID and one or more third parties.

9 27. Powerchip is a member of the JEDEC Solid State Technology Association
10 ("JEDEC") and is entitled to all rights, benefits, defenses, remedies and other claims that are
11 available to JEDEC members, including the right to license the '919 patent under reasonable terms
12 and conditions that are demonstrably free of any unfair discrimination.

13 28. MOSAID is barred from obtaining a license from Powerchip under the '919 patent on
14 anything more than reasonable terms and conditions that are demonstrably free of any unfair
15 discrimination.

16 29. The '919 patent is unenforceable due to laches, equitable estoppel, prosecution
17 laches, patent misuse and/or inequitable conduct.

18 a. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
19 individuals subject to the requirements of 37 C.F.R. 1.56(c) with regard to the '919 patent and its
20 predecessor applications were aware of U.S. Patent Nos. 5,220,206 ("the '206 patent"), 5,497,115
21 ("the '115 patent"), 5,610,543 ("the 543 patent") and 5,657,481 ("the '481 patent") prior to the
22 issuance of the '919 patent. Prior to issuance of the '919 patent, the '206, '115, '543 and '481
23 patents were variously cited during prosecution of the applications corresponding to U.S. Patents
24 Nos. 5,777,501, 5,991,226 and 6,087,868, which are also assigned to MOSAID. Pascal &
25 Associates was counsel of records for the '501, '226 and '868 patents and for at least part of the
26 prosecution of the '919 patent and/or its predecessor applications. The information contained in the
27 '206, '115, '643 and '481 patents is material to one or more claims of the '919 patent and/or its
28 predecessor applications. Nevertheless, the '206, '115, '543 and '481 patents were not disclosed to

1 the PTO during the prosecution of the '919 patent and its predecessor applications. The failure to
2 disclose this material information was knowing, willful and done with the intent to deceive the PTO
3 into issuing the '919 patent. As a result, the '919 patent is unenforceable due to inequitable conduct.

4 b. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
5 individuals subject to the requirements of 37 C.F.R. 1.56(c) with regard to the '919 patent and its
6 predecessor applications were aware of U.S. Patent Nos. 5,295,164 ("the '164 patent"), 5,544,203
7 ("the '203 patent") and 5,604,775 ("the '775 patent") prior to the issuance of the '919 patent. For
8 example, prior to the issuance of the '919 patent, the '164 patent was cited during prosecution of the
9 application corresponding to U.S. Patent No. 6,327,318 ("the '318 patent") which is also assigned to
10 MOSAID and includes MOSAID personnel as inventors (including Graham Allan, who is also a
11 named inventor of the '919 patent). In addition, the '203 and '775 patents are described in the
12 specification of the '318 patent, and, upon information and belief, MOSAID personnel reviewed and
13 approved the specification of the '318 patent. The information contained in the '164, '203, and '775
14 patents is material to one or more claims of the '919 patent and/or its predecessor applications.
15 Nevertheless, the '164, '203, and '774 patents were not disclosed to the PTO during the prosecution
16 of the '919 patent and its predecessor applications. The failure to disclose this material information
17 was knowing, willful, and done with the intent to deceive the PTO into issuing the '919 patent. As a
18 result, the '919 patent is unenforceable due to inequitable conduct.

19 c. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
20 individuals subject to the requirements of 37 C.F.R. 1.56(c) with regard to the '919 patent and its
21 predecessor applications, including Richard Foss, Peter Gillingham, Graham Allen, James Smith,
22 and Ed Pascal, were aware of Rambus, Inc. ("Rambus") patents and Rambus publications relating to
23 DLL technology, including U.S. Patent Nos. 5,243,703, 5,319,755, 5,355,391, 5,809,263, 5,657,481,
24 6,067,592; the 1993 Rambus Product Catalog; the 1993 RDRAM Reference Manual; and Horowitz
25 et. al., "Clocking Strategies in High Performance Processors," 1992 Symposium on VLSI Circuits
26 Digest of Technical Papers ("the Horowitz Reference");, and other literature relating to Rambus
27 DLL technology, including the 1994 New DRAM Technologies text by Steven Przybylski, prior to
28 the issuance of the '919 patent as well as prior to issuance of the following predecessor patents: U.S.

1 Patent Nos. 5,796,673, 6,067,272, 6,205,083, 6,314,052, and 6,657,918. Peter Gillingham, Richard
2 Foss, and Graham Allan, named inventors of the '919 patent, gained knowledge of the Rambus
3 patents through knowledge of the litigation between Infineon and Rambus (Civil Action No.
4 3:00CV524) and through knowledge of the JEDEC patent tracking list, which included a reference
5 to U.S. Patent No. 5,243,703 as of the September 13, 1994 JC-42.3 meeting. Peter Gillingham, a
6 named inventor of the '919 patent, also cites and discusses Rambus DLL patents in his U.S. Patent
7 No. 6,510,503, assigned to MOSAID. Further still, Richard Foss, a named inventor of the '919
8 patent, attended the June 1992 VLSI Symposium at which the Horowitz reference was presented.
9 Yet further, Cormac O'Connell assisted Steven Przybylski in drafting "New DRAM Technologies"
10 (1994), a text which notes Rambus' use of delay locked loops in its commercial RDRAM products.
11 The materials listed above relating to Rambus DLL technology are material to the claims of the '919
12 patent and the claims of its predecessors listed above, which are directed toward similar technology.
13 Nevertheless, the materials listed above relating to the Rambus DLL technology were not disclosed
14 to the PTO during the prosecution of the '919 patent and its predecessors listed above. Upon
15 information and belief, the failure to disclose this material information was knowing, willful and
16 done with the intent to deceive the PTO into issuing the '919 patent. As a result, the '919 patent is
17 unenforceable due to inequitable conduct.

18 d. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
19 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to the '919 patent and its
20 predecessor applications were aware of U.S. Patent No. 5,317,202 (the "'202 patent") prior to the
21 issuance of the '919 patent. For examples, prior to the issuance of the '919 patent, the '202 patent
22 was cited by MOSAID in connection with U.S. Patent No. 6,320,437, which is also assigned to
23 MOSAID. The information contained in the '202 patent is material to one or more claims of the
24 '919 patent and/or its predecessor applications. Nevertheless, the '202 patent was not disclosed to
25 the PTO during prosecution of the '919 patent and its predecessor applications. Upon information
26 and belief, the failure to disclose this material information was knowing, willful, and done with the
27 intent to deceive the PTO into issuing the '919 patent. As a result, the '919 patent is unenforceable
28 due to inequitable conduct.

1 e. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
2 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to the '919 patent and its
3 predecessor applications were aware of U.S. Patent No. 5,463,337 ("the '337 patent") prior to the
4 issuance of the '919 patent. For example, prior to issuance of the '919 patent, the '337 patent was
5 cited by MOSAID in connection with U.S. Patent No. 6,441,659, which is also assigned to
6 MOSAID. The information contained in the '337 patent is material to one or more claims of the
7 '919 patent and/or its predecessor applications. Nevertheless, the '337 patent was not disclosed to
8 the PTO during the prosecution of the '919 patent and its predecessor applications. Upon
9 information and belief, the failure to disclose this material information was knowing, willful, and
10 done with the intent to deceive the PTO into issuing the '919 patent. As a result, the '919 patent is
11 unenforceable due to inequitable conduct.

12 f. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
13 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to the '919 patent and its
14 predecessor applications were aware of a 1992 presentation given by Xerox disclosing the use of an
15 on-chip DLL prior to the issuance of the '919 patent. For example, Richard Foss and Peter
16 Gillingham, named inventors of the '919 patent are listed as attendees of the December 18, 1992
17 JEDEC JC42.3 DRAM Task Group Special Meeting at which the Xerox presentation was delivered.
18 Information relating to the Xerox presentation is material to one or more claims of the '919 patent
19 and/or its predecessor applications. Nevertheless, the Xerox presentation was not disclosed to the
20 PTO during the prosecution of the '919 patent and its predecessor applications. Upon information
21 and belief, the failure to disclose this material information was knowing, willful, and done with the
22 intent to deceive the PTO into issuing the '919 patent. As a result, the '919 patent is unenforceable
23 due to inequitable conduct.

24 g. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
25 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to the '919 patent and its
26 predecessor applications were aware of Waizman et al., "A delay Line Loop for Frequency Synthesis
27 of De-Skewed Clock," IEEE International Solid-State Circuits Conference (1994) ("the Waizman
28 Reference") and Lee et al., "A 2.5V Delay-Locked Loop for an 18Mb 500MB/s DRAM," IEEE

1 International Solid-State Circuits Conference (1994) (“the Lee Reference”) prior to the issuance of
2 the ‘919 patent and its predecessor applications. For example, Richard Foss, a named inventor of the
3 ‘919 patent, attended the February 1994 ISSC Conference at which the Waizman and Lee
4 References were presented. Information relating to the Waizman and Lee References is material to
5 one or more claims of the ‘919 patent. Nevertheless, the Waizman and Lee References were not
6 disclosed to the PTO during the prosecution of the ‘919 patent and its predecessor applications.
7 Upon information and belief, the failure to disclose this material information was knowing, willful,
8 and done with the intent to deceive the PTO into issuing the ‘919 patent and its predecessors. As a
9 result, the 919 patent is unenforceable due to inequitable conduct.

10 h. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
11 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to the ‘919 patent and its
12 predecessor applications were aware of a presentation given by NEC concerning a “PLL Enable
13 Mode” prior to the issuance of the ‘919 patent (“the NEC Presentation”). For example, named
14 inventors of the ‘919 patent are listed as attendees of the JEDEC JC-42.3 meeting at which the NEC
15 Presentation was delivered. Information relating to the NEC Presentation is material to one or more
16 claims of the ‘919 patent and/or its predecessor applications. Upon information and belief, the
17 failure to disclose this material information was knowing, willful, and done with the intent to
18 deceive the PTO into issuing the ‘919 patent. As a result, the ‘919 patent is unenforceable due to
19 inequitable conduct.

20 30. A judicial declaration of noninfringement, invalidity, unenforceability, and license is
21 necessary and appropriate to resolve this controversy.

22 **COUNT II**

23 **(Declaration of Noninfringement, Invalidity, Unenforceability, and License of**

24 **U.S. Patent No. 6,992,950)**

25 31. Powerchip incorporates and realleges the allegations set forth in the paragraphs above
26 as if set forth fully herein.

27 ///

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1 32. U.S. Patent No. 6,992,950 (the “‘950 patent”) was filed on August 21, 2003 and
2 issued on January 31, 2006. The named inventors of the ‘950 patent are Richard C. Foss, Peter B.
3 Gillingham and Graham Allan. A copy of the ‘950 patent is attached hereto as Exhibit B.

4 33. Powerchip has not infringed and is not now infringing, directly or indirectly, any
5 valid claim of the ‘950 patent, either literally or under the doctrine of equivalents.

6 34. The ‘950 patent is invalid because it fails to meet the requirements for patentability as
7 set forth in 35 U.S.C. §§ 102, 103, 112 and/or other sections set forth in Title 35 of the United States
8 Code.

9 35. MOSAID is barred from asserting infringement by Powerchip of the ‘950 patent
10 because Powerchip is licensed to make products covered by the ‘950 patent pursuant to the terms of
11 license agreement(s) between MOSAID and one or more third parties.

12 36. Powerchip is a member of JEDEC and is entitled to all rights, benefits, defenses,
13 remedies and other claims that are available to JEDEC members, including the right to license the
14 ‘950 patent under reasonable terms and conditions that are demonstrably free of any unfair
15 discrimination.

16 37. MOSAID is barred from obtaining a license from Powerchip under the ‘950 patent on
17 anything more than reasonable terms and conditions that are demonstrably free of any unfair
18 discrimination.

19 38. The ‘950 patent is unenforceable due to laches, equitable estoppel, prosecution
20 laches, patent misuse and/or inequitable conduct.

21 a. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
22 individuals subject to the requirements of 37 C.F.R. 1.56(c) with regard to the ‘950 patent and its
23 predecessor applications were aware of U.S. Patent Nos. 5,220,206 (“the ‘206 patent”), 5,497,115
24 (“the ‘115 patent”), 5,610,543 (“the ‘543 patent”) and 5,657,481 (“the ‘481 patent”) prior to the
25 issuance of the ‘950 patent. Prior to the issuance of the ‘950 patent, the ‘206, ‘115, ‘543 and ‘481
26 patents were variously cited during prosecution of the applications corresponding to U.S. Patent Nos.
27 5,777,501, 5,991,226 and 6,087,868, which are also assigned to MOSAID. Pascal & Associates was
28 counsel of record for the ‘501, ‘226 and ‘868 patents and for at least part of the prosecution of the

1 '950 patent and/or its predecessor applications. The information contained in the '206, '115, '543
2 and '481 patents is material to one or more claims of the '950 patent and/or its predecessor
3 applications. Nevertheless, the '206, '115, '543 and '481 patents were not disclosed to the PTO
4 during the prosecution of the '950 patent and its predecessor applications. The failure to disclose
5 this material information was knowing, willful and done with the intent to deceive the PTO into
6 issuing the '950 patent. As a result, the '950 patent is unenforceable due to inequitable conduct.

7 b. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
8 individuals subject to the requirements of 37 C.F.R. 1.56(c) with regard to the '950 patent and its
9 predecessor applications were aware of U.S. Patent Nos. 5,295,164 ("the '164 patent"), 5,544,203
10 ("the '203 patent") and 5,604,775 ("the '775 patent") prior to the issuance of the '950 patent. For
11 example, prior to the issuance of the '950 patent, the '164 patent was cited during prosecution of the
12 application corresponding to U.S. Patent No. 6,327,318 ("the '318 patent") which is also assigned to
13 MOSAID and includes MOSAID personnel as inventors (including Graham Allan, who is also a
14 named inventor of the '950 patent). In addition, the '203 and '775 patents are described in the
15 specification of the '318 patent, and, upon information and belief, MOSAID personnel reviewed and
16 approved the specification of the '318 patent. The information contained in the '164, '203, and '775
17 patents is material to one or more claims of the '950 patent and/or its predecessor applications.
18 Nevertheless, the '164, '203, and '775 patents were not disclosed to the PTO during the prosecution
19 of the '950 patent and its predecessor applications. The failure to disclose this material information
20 was knowing, willful, and done with the intent to deceive the PTO into issuing the '950 patent. As a
21 result, the '950 patent is unenforceable due to inequitable conduct.

22 c. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
23 individuals subject to the requirements of 37 C.F.R. 1.56(c) with regard to the '950 patent and its
24 predecessor applications, including Richard Foss, Peter Gillingham, Graham Allen, James Smith,
25 and Ed Pascal, were aware of Rambus, Inc. ("Rambus") patents and Rambus publications relating to
26 DLL technology, including U.S. Patent Nos. 5,243,703, 5,319,755, 5,355,391, 5,809,263, 5,657,481,
27 6,067,592; the 1993 Rambus Product Catalog; the 1993 RDRAM Reference Manual; and Horowitz
28 et. al., "Clocking Strategies in High Performance Processors," 1992 Symposium on VLSI Circuits

1 Digest of Technical Papers (“the Horowitz Reference”), and other literature relating to Rambus DLL
2 technology, including the 1994 New DRAM Technologies text by Steven Przybylski, prior to the
3 issuance of the ‘950 patent as well as prior to issuance of the following predecessor patents: U.S.
4 Patent Nos. 5,796,673, 6,067,272, 6,205,083, 6,314,052, 6,657,918, and 6,657,919. Peter
5 Gillingham, Richard Foss, and Graham Allan, named inventors of the ‘950 patent, gained knowledge
6 of the Rambus patents through knowledge of the litigation between Infineon and Rambus (Civil
7 Action No. 3:00CV524) and through knowledge of the JEDEC patent tracking list, which includes a
8 reference to U.S. Patent No. 5,243,703 as of the September 13, 1994 JC-42.3 meeting. Peter
9 Gillingham, a named inventor on the ‘950 patent, also cites and discusses Rambus DLL patents in
10 his U.S. Patent No. 6,510,503, assigned to MOSAID. Further still, Richard Foss, a named inventor
11 of the ‘950 patent, attended the June 1992 VLSI Symposium at which the Horowitz reference was
12 presented. Yet further, Cormac O’Connell assisted Steven Przybylski in drafting “New DRAM
13 Technologies” (1994), a text which notes Rambus’ use of delay locked loops in its commercial
14 RDRAM products. The materials listed above relating to Rambus’ DLL technology are material to
15 the claims of the ‘950 patent and the claims of its predecessors listed above, which are directed
16 toward similar technology. Nevertheless, the materials listed above relating to the Rambus DLL
17 technology were not disclosed to the PTO during the prosecution of the ‘950 patent and its
18 predecessors listed above. Upon information and belief, the failure to disclose this material
19 information was knowing, willful and done with the intent to deceive the PTO into issuing the ‘950
20 patent. As a result, the ‘950 patent is unenforceable due to inequitable conduct.

21 d. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
22 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to the ‘919 patent and its
23 predecessor applications were aware of U.S. Patent No. 5,317,202 (the “‘202 patent”) prior to the
24 issuance of the ‘950 patent. For examples, prior to the issuance of the ‘950 patent, the ‘202 patent
25 was cited by MOSAID in connection with U.S. Patent No. 6,320,437, which is also assigned to
26 MOSAID. The information contained in the ‘202 patent is material to one or more claims of the
27 ‘950 patent and/or its predecessor applications. Nevertheless, the ‘202 patent was not disclosed to
28 the PTO during prosecution of the ‘950 patent and its predecessor applications. Upon information

1 and belief, the failure to disclose this material information was knowing, willful, and done with the
2 intent to deceive the PTO into issuing the '950 patent. As a result, the '950 patent is unenforceable
3 due to inequitable conduct.

4 e. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
5 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to the '950 patent and its
6 predecessor applications were aware of U.S. Patent No. 5,463,337 ("the '337 patent") prior to the
7 issuance of the '950 patent. For example, prior to issuance of the '950 patent, the '337 patent was
8 cited by MOSAID in connection with U.S. Patent No. 6,441,659, which is also assigned to
9 MOSAID. The information contained in the '337 patent is material to one or more claims of the
10 '950 patent and/or its predecessor applications. Nevertheless, the '337 patent was not disclosed to
11 the PTO during the prosecution of the '950 patent and its predecessor applications. Upon
12 information and belief, the failure to disclose this material information was knowing, willful, and
13 done with the intent to deceive the PTO into issuing the '950 patent. As a result, the '950 patent is
14 unenforceable due to inequitable conduct.

15 f. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
16 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to the '950 patent and its
17 predecessor applications were aware of a 1992 presentation given by Xerox disclosing the use of an
18 on-chip DLL prior to the issuance of the '950 patent. For example, Richard Foss and Peter
19 Gillingham, named inventors of the '950 patent are listed as attendees of the December 18, 1992
20 JEDEC JC42.3 DRAM Task Group Special Meeting at which the Xerox presentation was delivered.
21 Information relating to the Xerox presentation is material to one or more claims of the '950 patent
22 and/or its predecessor applications. Nevertheless, the Xerox presentation was not disclosed to the
23 PTO during the prosecution of the '950 patent and its predecessor applications. Upon information
24 and belief, the failure to disclose this material information was knowing, willful, and done with the
25 intent to deceive the PTO into issuing the '950 patent. As a result, the '950 patent is unenforceable
26 due to inequitable conduct.

27 g. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
28 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to the '950 patent and its

1 predecessor applications were aware of Waizman et al., “A delay Line Loop for Frequency Synthesis
2 of De-Skewed Clock,” IEEE International Solid-State Circuits Conference (1994) (“the Waizman
3 Reference”) and Lee et al., “A 2.5V Delay-Locked Loop for an 18Mb 500MB/s DRAM,” IEEE
4 International Solid-State Circuits Conference (1994) (“the Lee Reference”) prior to the issuance of
5 the ‘950 patent and its predecessor applications. For example, Richard Foss, a named inventor of the
6 ‘950 patent, attended the February 1994 ISSC Conference at which the Waizman and Lee
7 References were presented. Information relating to the Waizman and Lee References is material to
8 one or more claims of the ‘950 patent. Nevertheless, the Waizman and Lee References were not
9 disclosed to the PTO during the prosecution of the ‘950 patent and its predecessor applications.
10 Upon information and belief, the failure to disclose this material information was knowing, willful,
11 and done with the intent to deceive the PTO into issuing the ‘950 patent and its predecessors. As a
12 result, the 950 patent is unenforceable due to inequitable conduct.

13 h. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
14 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to the ‘950 patent and its
15 predecessor applications were aware of a presentation given by NEC concerning a “PLL Enable
16 Mode” prior to the issuance of the ‘950 patent (“the NEC Presentation”). For example, named
17 inventors of the ‘950 patent are listed as attendees of the JEDEC JC-42.3 meeting at which the NEC
18 Presentation was delivered. Information relating to the NEC Presentation is material to one or more
19 claims of the ‘950 patent and/or its predecessor applications. Upon information and belief, the
20 failure to disclose this material information was knowing, willful, and done with the intent to
21 deceive the PTO into issuing the ‘950 patent. As a result, the ‘950 patent is unenforceable due to
22 inequitable conduct.

23 i. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
24 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to the ‘950 patent were
25 aware of pleadings from *MOSAID Technologies Inc. v. Infineon Technologies North America Corp.*,
26 Case No. 6:05CV120 (E.D. Tex. 2005) directly related to the scope and validity of the ‘950 patent
27 while the ‘950 patent was pending. For example, Infineon filed and served Invalidity Contentions in
28 its litigation with MOSAID setting forth element-by-element comparisons of the ‘950 patent and

1 material prior art, MOSAID responded to an interrogatory regarding Infineon's Invalidation
2 Contentions as to the '950 patent, and both parties served pleadings pertaining to the scope of the
3 '950 patent. Pursuant to MPEP § 2001.06(c), MOSAID had an affirmative duty to (1) identify to the
4 PTO that the '950 patent was the subject of litigation (2) disclose pleadings such as Infineon's
5 Invalidation Contentions, MOSAID's responses to Infineon's interrogatories, and the parties claim
6 construction pleadings; and (3) U.S. Patent Nos. 4,463,440, 5,111,063, 5,272,390, 5,371,764,
7 5,414,381, 5,657,481, 5,812,832 and the NEC Presentation, all of which were specifically identified
8 in Infineon's Invalidation Contentions. Upon information and belief, at least the prosecuting attorneys
9 were aware of MPEP § 2001.06(c) and its requirements while the '950 patent was pending.
10 Information served in this litigation relating to the scope and validity of the '950 patent is material to
11 one or more claims of the '950 patent. Nevertheless, no information from this litigation was
12 disclosed to the PTO during the prosecution of the '950 patent. The failure to disclose this material
13 information was knowing, willful, and done with the intent to deceive the PTO into issuing the '950
14 patent. As a result, the '950 patent is unenforceable due to inequitable conduct.

15 39. A judicial declaration of noninfringement, invalidity, unenforceability, and license is
16 necessary and appropriate to resolve this controversy.

17 **COUNT III**

18 **(Declaration of Noninfringement, Invalidity, Unenforceability, and License of** 19 **U.S. Patent No. 5,751,643)**

20 40. Powerchip incorporates and realleges the allegations set forth in the paragraphs above
21 as if set forth fully herein.

22 41. U.S. Patent No. 5,751,643 (the "'643 patent") was filed on March 6, 1996 and issued
23 on May 12, 1998. The named inventor on the '643 patent is Valerie L. Lines. A copy of the '643
24 patent is attached hereto as Exhibit C.

25 42. Powerchip has not infringed and is not now infringing, directly or indirectly, any
26 valid claim of the '643 patent, either literally or under the doctrine of equivalents.

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1 43. The '643 patent is invalid because it fails to meet the requirements for patentability as
2 set forth in 35 U.S.C. §§ 102, 103, 112 and/or other sections set forth in Title 35 of the United States
3 Code.

4 44. MOSAID is barred from asserting infringement by Powerchip of the '643 patent
5 because Powerchip is licensed to make products covered by the '643 patent pursuant to the terms of
6 license agreement(s) between MOSAID and one or more third parties.

7 45. The '643 patent is unenforceable due to laches, equitable estoppel, prosecution
8 laches, and/or inequitable conduct.

9 a. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
10 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to U.S. Patent No.
11 5,214,602 ("the '602 patent") and its related applications were aware of Fujii, Syuso, et al., "A 45-
12 ns 16-Mbit DRAM with Triple-Well Structure," IEEE International Solid-State Circuits Conference
13 (February 17, 1989) ("Fujii (Feb. 1989)") and/or Fujii, Syuso, et al., "A 45-ns 16-Mbit DRAM with
14 Triple-Well Structure," IEEE J. of Solid State Circuits, vol. 24(5), at 1170-74 (Oct. 1989) ("Fujii
15 (Oct. 1989)") prior to the issuance of the '602 patent. For example, on March 26, 1990, Richard C.
16 Foss sent a fax to at least four other MOSAID employees in which he expressed concern that
17 MOSAID would not be able to receive a patent for its word line driver because of Fujii (Feb. 1989)
18 and/or Fujii (Oct. 1989). On April 5, 1990, Edward. E. Pascal sent a draft U.K. Patent Application
19 for the word line to Tibor Z. Gold, in which Fujii (Oct. 1989) was listed as a prior art reference. Yet,
20 a redacted version of the U.K. application, without reference to Fujii (Oct. 1989), was filed with the
21 PTO during the prosecution of the '602 patent in support of MOSAID's claim that the '602 patent
22 was entitled to the filing date of the U.K. application. The information contained in Fujii (Feb.
23 1989) and Fujii (Oct. 1989) is material to one or more claims of the '602 patent. Nevertheless, Fujii
24 (Feb. 1989) and Fujii (Oct. 1989) were not disclosed to the PTO during the prosecution of the '602
25 patent. The failure to disclose this material information was knowing, willful, and done with the
26 intent to deceive the PTO into issuing the '602 patent. The '643 patent is a continuation-in-part
27 patent that claims priority to the '602 patent. As a result, the '643 patent is unenforceable due to
28 inequitable conduct and infectious unenforceability.

1 49. Powerchip has not infringed and is not now infringing, directly or indirectly, any
2 valid claim of the '253 patent, either literally or under the doctrine of equivalents.

3 50. The '253 patent is invalid because it fails to meet the requirements for patentability as
4 set forth in 35 U.S.C. §§ 102, 103, 112 and/or other sections set forth in Title 35 of the United States
5 Code.

6 51. MOSAID is barred from asserting infringement by Powerchip of the '253 patent
7 because Powerchip is licensed to make products covered by the '253 patent pursuant to the terms of
8 license agreement(s) between MOSAID and one or more third parties.

9 52. The '253 patent is unenforceable due to laches, equitable estoppel, prosecution
10 laches, and/or inequitable conduct.

11 a. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
12 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to U.S. Patent No.
13 5,214,602 ("the '602 patent") and its related applications were aware of Fujii, Syuso, et al., "A 45-
14 ns 16-Mbit DRAM with Triple-Well Structure," IEEE International Solid-State Circuits Conference
15 (February 17, 1989) ("Fujii (Feb. 1989)") and/or Fujii, Syuso, et al., "A 45-ns 16-Mbit DRAM with
16 Triple-Well Structure," IEEE J. of Solid State Circuits, vol. 24(5), at 1170-74 (Oct. 1989) ("Fujii
17 (Oct. 1989)") prior to the issuance of the '602 patent. For example, on March 26, 1990, Richard C.
18 Foss sent a fax to at least four other MOSAID employees in which he expressed concern that
19 MOSAID would not be able to receive a patent for its word line driver because of Fujii (Feb. 1989)
20 and/or Fujii (Oct. 1989). On April 5, 1990, Edward. E. Pascal sent a draft U.K. Patent Application
21 for the word line to Tibor Z. Gold, in which Fujii (Oct. 1989) was listed as a prior art reference. Yet,
22 a redacted version of the U.K. application, without reference to Fujii (Oct. 1989), was filed with the
23 PTO during the prosecution of the '602 patent in support of MOSAID's claim that the '602 patent
24 was entitled to the filing date of the U.K. application. The information contained in Fujii (Feb.
25 1989) and Fujii (Oct. 1989) is material to one or more claims of the '602 patent. Nevertheless, Fujii
26 (Feb. 1989) and Fujii (Oct. 1989) were not disclosed to the PTO during the prosecution of the '602
27 patent. The failure to disclose this material information was knowing, willful, and done with the
28 intent to deceive the PTO into issuing the '602 patent. The '253 patent is a continuation that claims

1 priority to the '602 patent. As a result, the '253 patent is unenforceable due to inequitable conduct
2 and infectious unenforceability.

3 b. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
4 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to the '253 patent and its
5 related applications were aware of U.S. Patent No. 4,486,670 ("Chan") prior to the issuance of the
6 '253 patent. For example, on June 29, 1995, Richard C. Foss (MOSAID's co-founder) and Peter
7 Gillingham (responsible for the patent prosecution group at MOSAID) received a fax requesting
8 MOSAID to evaluate whether its 4M DRAM infringed Chan for potential licensing negotiations. A
9 copy of Chan was attached to the fax. On or before November 19, 1996, MOSAID discussed
10 attempting to invalidate Japanese Patent No. 58-125298 which is the Japanese counterpart to Chan.
11 The communications regarding an attempt to invalidate Japanese Patent No. 58-125298 were sent
12 between James M. Smith (the attorney responsible for prosecuting the '253 patent) and Michael
13 Vladescu (the employee responsible for the day-to-day management of patent prosecution at
14 MOSAID under Peter Gillingham). The information contained in Chan is material to one or more
15 claims of the '253 patent. Nevertheless, Chan was not disclosed to the PTO during the prosecution
16 of the '253 patent and its related applications. The failure to disclose this material information was
17 knowing, willful, and done with the intent to deceive the PTO. As a result, the '253 patent is
18 unenforceable due to inequitable conduct.

19 53. A judicial declaration of noninfringement, invalidity, unenforceability, and license is
20 necessary and appropriate to resolve this controversy.

21 COUNT V

22 **(Declaration of Noninfringement, Invalidity, Unenforceability, and License of** 23 **U.S. Patent No. 6,278,640)**

24 54. Powerchip incorporates and realleges the allegations set forth in the paragraphs above
25 as if set forth fully herein.

26 55. U.S. Patent No. 6,278,640 (the "'640 patent") was filed on April 13, 2000 and issued
27 on August 21, 2001. The named inventor on the '640 patent is Valerie L. Lines. A copy of the '640
28 patent is attached hereto as Exhibit E.

1 56. Powerchip has not infringed and is not now infringing, directly or indirectly, any
2 valid claim of the '640 patent, either literally or under the doctrine of equivalents.

3 57. The '640 patent is invalid because it fails to meet the requirements for patentability as
4 set forth in 35 U.S.C. §§ 102, 103, 112 and/or other sections set forth in Title 35 of the United States
5 Code.

6 58. MOSAID is barred from asserting infringement by Powerchip of the '640 patent
7 because Powerchip is licensed to make products covered by the '640 patent pursuant to the terms of
8 license agreement(s) between MOSAID and one or more third parties.

9 59. The '640 patent is unenforceable due to laches, equitable estoppel, prosecution
10 laches, and/or inequitable conduct.

11 a. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
12 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to U.S. Patent No.
13 5,214,602 (“the ‘602 patent”) and its related applications were aware of Fujii, Syuso, et al., “A 45-
14 ns 16-Mbit DRAM with Triple-Well Structure,” IEEE International Solid-State Circuits Conference
15 (February 17, 1989) (“Fujii (Feb. 1989)”) and/or Fujii, Syuso, et al., “A 45-ns 16-Mbit DRAM with
16 Triple-Well Structure,” IEEE J. of Solid State Circuits, vol. 24(5), at 1170-74 (Oct. 1989) (“Fujii
17 (Oct. 1989)”) prior to the issuance of the '602 patent. For example, on March 26, 1990, Richard C.
18 Foss sent a fax to at least four other MOSAID employees in which he expressed concern that
19 MOSAID would not be able to receive a patent for its word line driver because of Fujii (Feb. 1989)
20 and/or Fujii (Oct. 1989). On April 5, 1990, Edward. E. Pascal sent a draft U.K. Patent Application
21 for the word line to Tibor Z. Gold, in which Fujii (Oct. 1989) was listed as a prior art reference. Yet,
22 a redacted version of the U.K. application, without reference to Fujii (Oct. 1989), was filed with the
23 PTO during the prosecution of the '602 patent in support of MOSAID’s claim that the '602 patent
24 was entitled to the filing date of the U.K. application. The information contained in Fujii (Feb.
25 1989) and Fujii (Oct. 1989) is material to one or more claims of the '602 patent. Nevertheless, Fujii
26 (Feb. 1989) and Fujii (Oct. 1989) were not disclosed to the PTO during the prosecution of the '602
27 patent. The failure to disclose this material information was knowing, willful, and done with the
28 intent to deceive the PTO into issuing the '602 patent. The '640 patent is a continuation that claims

1 priority to the '602 patent. As a result, the '640 patent is unenforceable due to inequitable conduct
2 and infectious unenforceability.

3 b. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
4 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to the '640 patent and its
5 related applications were aware of U.S. Patent No. 4,486,670 ("Chan") prior to the issuance of the
6 '640 and '253 patents. For example, on June 29, 1995, Richard C. Foss (MOSAID's co-founder)
7 and Peter Gillingham (responsible for the patent prosecution group at MOSAID) received a fax
8 requesting MOSAID to evaluate whether its 4M DRAM infringed Chan for potential licensing
9 negotiations. A copy of Chan was attached to the fax. On or before November 19, 1996, MOSAID
10 discussed attempting to invalidate Japanese Patent No. 58-125298 which is the Japanese counterpart
11 to Chan. The communications regarding an attempt to invalidate Japanese Patent No. 58-125298
12 were sent between James M. Smith (the attorney responsible for prosecuting the '640 and '253
13 patents) and Michael Vladescu (the employee responsible for the day-to-day management of patent
14 prosecution at MOSAID under Peter Gillingham). The information contained in Chan is material to
15 one or more claims of the '640 and '253 patents. Nevertheless, Chan was not disclosed to the PTO
16 during the prosecution of the '640 and '253 patents and its related applications. The failure to
17 disclose this material information was knowing, willful, and done with the intent to deceive the PTO.
18 The '640 patent is a continuation that claims priority to the '253 patent. As a result, the '640 patent
19 is unenforceable due to inequitable conduct and infectious unenforceability.

20 60. A judicial declaration of noninfringement, invalidity, unenforceability, and license is
21 necessary and appropriate to resolve this controversy.

22 **COUNT VI**

23 **(Declaration of Noninfringement, Invalidity, Unenforceability, and License of**

24 **U.S. Patent No. 6,603,703)**

25 61. Powerchip incorporates and realleges the allegations set forth in the paragraphs above
26 as if set forth fully herein.

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1 62. U.S. Patent No. 6,603,703 (the “‘703 patent”) was filed on July 31, 2001 and issued
2 on August 5, 2003. The named inventor on the ‘703 patent is Valerie L. Lines. A copy of the ‘703
3 patent is attached hereto as Exhibit F.

4 63. Powerchip has not infringed and is not now infringing, directly or indirectly, any
5 valid claim of the ‘703 patent, either literally or under the doctrine of equivalents.

6 64. The ‘703 patent is invalid because it fails to meet the requirements for patentability as
7 set forth in 35 U.S.C. §§ 102, 103, 112 and/or other sections set forth in Title 35 of the United States
8 Code.

9 65. MOSAID is barred from asserting infringement by Powerchip of the ‘703 patent
10 because Powerchip is licensed to make products covered by the ‘703 patent pursuant to the terms of
11 license agreement(s) between MOSAID and one or more third parties.

12 66. The ‘703 patent is unenforceable due to laches, equitable estoppel, prosecution
13 laches, and/or inequitable conduct.

14 a. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
15 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to U.S. Patent No.
16 5,214,602 (“the ‘602 patent”) and its related applications were aware of Fujii, Syuso, et al., “A 45-
17 ns 16-Mbit DRAM with Triple-Well Structure,” IEEE International Solid-State Circuits Conference
18 (February 17, 1989) (“Fujii (Feb. 1989)”) and/or Fujii, Syuso, et al., “A 45-ns 16-Mbit DRAM with
19 Triple-Well Structure,” IEEE J. of Solid State Circuits, vol. 24(5), at 1170-74 (Oct. 1989) (“Fujii
20 (Oct. 1989)”) prior to the issuance of the ‘602 patent. For example, on March 26, 1990, Richard C.
21 Foss sent a fax to at least four other MOSAID employees in which he expressed concern that
22 MOSAID would not be able to receive a patent for its word line driver because of Fujii (Feb. 1989)
23 and/or Fujii (Oct. 1989). On April 5, 1990, Edward. E. Pascal sent a draft U.K. Patent Application
24 for the word line to Tibor Z. Gold, in which Fujii (Oct. 1989) was listed as a prior art reference. Yet,
25 a redacted version of the U.K. application, without reference to Fujii (Oct. 1989), was filed with the
26 PTO during the prosecution of the ‘602 patent in support of MOSAID’s claim that the ‘602 patent
27 was entitled to the filing date of the U.K. application. The information contained in Fujii (Feb.
28 1989) and Fujii (Oct. 1989) is material to one or more claims of the ‘602 patent. Nevertheless, Fujii

1 (Feb. 1989) and Fujii (Oct. 1989) were not disclosed to the PTO during the prosecution of the '602
2 patent. The failure to disclose this material information was knowing, willful, and done with the
3 intent to deceive the PTO into issuing the '602 patent. The '703 patent is a continuation that claims
4 priority to the '602 patent. As a result, the '703 patent is unenforceable due to inequitable conduct
5 and infectious unenforceability.

6 b. The '703 patent is a continuation of the '253 and '640 patents. Upon information and
7 belief, the inventors of, prosecuting attorneys of, and/or other individuals subject to the requirements
8 of 37 C.F.R. § 1.56(c) with regard to the '253, '640 and '703 patents and their related applications
9 were aware of U.S. Patent No. 4,486,670 ("Chan") prior to the issuance of the '253, '640 and '703
10 patents. For example, on June 29, 1995, Richard C. Foss (MOSAID's co-founder) and Peter
11 Gillingham (responsible for the patent prosecution group at MOSAID) received a fax requesting
12 MOSAID to evaluate whether its 4M DRAM infringed Chan for potential licensing negotiations. A
13 copy of Chan was attached to the fax. On or before November 19, 1996, MOSAID discussed
14 attempting to invalidate Japanese Patent No. 58-125298 which is the Japanese counterpart to Chan.
15 The communications regarding an attempt to invalidate Japanese Patent No. 58-125298 were sent
16 between James M. Smith (the attorney responsible for prosecuting the '253, '640 and '703 patents)
17 and Michael Vladescu (the employee responsible for the day-to-day management of patent
18 prosecution at MOSAID under Peter Gillingham). The information contained in Chan is material to
19 one or more claims of the '253, '640 and '703 patents. Nevertheless, Chan was not disclosed to the
20 PTO during the prosecution of the '253 and '640 patents and their related applications. The failure
21 to disclose this material information was knowing, willful, and done with the intent to deceive the
22 PTO. Because the '703 patent is a continuation of the '253 and '640 patents, the '703 patent is
23 unenforceable due to inequitable conduct and infectious unenforceability.

24 67. A judicial declaration of noninfringement, invalidity, unenforceability, and license is
25 necessary and appropriate to resolve this controversy.

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COUNT VII

**(Declaration of Noninfringement, Invalidity, Unenforceability, and License of
U.S. Patent No. 7,038,937)**

68. Powerchip incorporates and realleges the allegations set forth in the paragraphs above as if set forth fully herein.

69. U.S. Patent No. 7,038,937 (the “‘937 patent”) was filed on March 2, 2004 and issued on May 2, 2006. The named inventor on the ‘937 patent is Valerie L. Lines. A copy of the ‘937 patent is attached hereto as Exhibit G.

70. Powerchip has not infringed and is not now infringing, directly or indirectly, any valid claim of the ‘937 patent, either literally or under the doctrine of equivalents.

71. The ‘937 patent is invalid because it fails to meet the requirements for patentability as set forth in 35 U.S.C. §§ 102, 103, 112 and/or other sections set forth in Title 35 of the United States Code.

72. MOSAID is barred from asserting infringement by Powerchip of the ‘937 patent because Powerchip is licensed to make products covered by the ‘937 patent pursuant to the terms of license agreement(s) between MOSAID and one or more third parties.

73. The ‘937 patent is unenforceable due to laches, equitable estoppel, prosecution laches, and/or inequitable conduct.

a. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to U.S. Patent No. 5,214,602 (“the ‘602 patent”) and its related applications were aware of Fujii, Syuso, et al., “A 45-ns 16-Mbit DRAM with Triple-Well Structure,” IEEE International Solid-State Circuits Conference (February 17, 1989) (“Fujii (Feb. 1989)”) and/or Fujii, Syuso, et al., “A 45-ns 16-Mbit DRAM with Triple-Well Structure,” IEEE J. of Solid State Circuits, vol. 24(5), at 1170-74 (Oct. 1989) (“Fujii (Oct. 1989)”) prior to the issuance of the ‘602 patent. For example, on March 26, 1990, Richard C. Foss sent a fax to at least four other MOSAID employees in which he expressed concern that MOSAID would not be able to receive a patent for its word line driver because of Fujii (Feb. 1989) and/or Fujii (Oct. 1989). On April 5, 1990, Edward. E. Pascal sent a draft U.K. Patent Application

1 for the word line to Tibor Z. Gold, in which Fujii (Oct. 1989) was listed as a prior art reference. Yet,
2 a redacted version of the U.K. application, without reference to Fujii (Oct. 1989), was filed with the
3 PTO during the prosecution of the '602 patent in support of MOSAID's claim that the '602 patent
4 was entitled to the filing date of the U.K. application. The information contained in Fujii (Feb.
5 1989) and Fujii (Oct. 1989) is material to one or more claims of the '602 patent. Nevertheless, Fujii
6 (Feb. 1989) and Fujii (Oct. 1989) were not disclosed to the PTO during the prosecution of the '602
7 patent. The failure to disclose this material information was knowing, willful, and done with the
8 intent to deceive the PTO into issuing the '602 patent. The '937 patent is a continuation that claims
9 priority to the '602 patent. As a result, the '937 patent is unenforceable due to inequitable conduct
10 and infectious unenforceability.

11 b. The '937 patent is a continuation of the '253 and '640 patents. Upon information and
12 belief, the inventors of, prosecuting attorneys of, and/or other individuals subject to the requirements
13 of 37 C.F.R. § 1.56(c) with regard to the '253, '640 and '937 patents and their related applications
14 were aware of U.S. Patent No. 4,486,670 ("Chan") prior to the issuance of the '253, '640 and '937
15 patents. For example, on June 29, 1995, Richard C. Foss (MOSAID's co-founder) and Peter
16 Gillingham (responsible for the patent prosecution group at MOSAID) received a fax requesting
17 MOSAID to evaluate whether its 4M DRAM infringed Chan for potential licensing negotiations. A
18 copy of Chan was attached to the fax. On or before November 19, 1996, MOSAID discussed
19 attempting to invalidate Japanese Patent No. 58-125298 which is the Japanese counterpart to Chan.
20 The communications regarding an attempt to invalidate Japanese Patent No. 58-125298 were sent
21 between James M. Smith (the attorney responsible for prosecuting the '253, '640 and '937 patents)
22 and Michael Vladescu (the employee responsible for the day-to-day management of patent
23 prosecution at MOSAID under Peter Gillingham). The information contained in Chan is material to
24 one or more claims of the '253, '640 and '937 patents. Nevertheless, Chan was not disclosed to the
25 PTO during the prosecution of the '253 and '640 patents and their related applications. The failure
26 to disclose this material information was knowing, willful, and done with the intent to deceive the
27 PTO. Because the '937 patent is a continuation of the '253 and '640 patents, the '937 patent is
28 unenforceable due to inequitable conduct and infectious unenforceability.

1 c. In addition, upon information and belief, the inventors of, prosecuting attorneys of,
2 and/or other individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to the ‘937
3 patent were aware of at least a portion of W. Pribyl, et al., “New Concepts for Wordline Driving
4 Circuits in CMOS” (the “Pribyl Reference”) prior to the issuance of the ‘448 patent. For example,
5 the Pribyl Reference was published at the Fourteenth European Solid-State Circuits Conference in
6 Manchester, UK held on September 21-23, 1988. Upon information and belief, on October 12,
7 2004, IBM provided a slide show presentation to MOSAID which included Figure 4 of the Pribyl
8 Reference and asserted that Figure 4 constituted prior art to U.S. Patent No. 6,603,703 (the “‘703
9 patent”). On information and belief, Michael Vladescu and James Skippen of MOSAID attended
10 this presentation. In addition, on information and belief, on October 14, 2004, IBM provided James
11 Skippen with a copy of the slide show. The application for the ‘937 patent was filed on June 17,
12 2003 and the patent issued on December 27, 2005. The ‘937 patent is a continuation that claims
13 priority to the ‘703 patent. The information contained in Figure 4 of the Pribyl Reference and the
14 Pribyl Reference as a whole is material to the patentability of one or more claims of the ‘937 patent.
15 Nevertheless, the Pribyl Reference, in whole or in part, was not disclosed to the PTO during the
16 prosecution of the ‘937 patent. The failure to disclose this material information was knowing,
17 willful, and done with the intent to deceive the PTO. As a result, the ‘937 patent is unenforceable
18 due to inequitable conduct.

19 74. A judicial declaration of noninfringement, invalidity, unenforceability, and license is
20 necessary and appropriate to resolve this controversy.

21 **COUNT VIII**

22 **(Declaration of Noninfringement, Invalidity, Unenforceability, and License of**
23 **U.S. Patent No. 5,828,620)**

24 75. Powerchip incorporates and realleges the allegations set forth in the paragraphs above
25 as if set forth fully herein.

26 76. U.S. Patent No. 5,828,620 (the “‘620 patent”) was filed on September 2, 1997 and
27 issued on October 27, 1998. The named inventors on the ‘620 patent are Richard C. Foss, Peter B.
28

1 Gillingham, Robert F. Harland, and Valerie L. Lines. A copy of the '620 patent is attached hereto as
2 Exhibit H.

3 77. Powerchip has not infringed and is not now infringing, directly or indirectly, any
4 valid claim of the '620 patent, either literally or under the doctrine of equivalents.

5 78. The '620 patent is invalid because it fails to meet the requirements for patentability as
6 set forth in 35 U.S.C. §§ 102, 103, 112 and/or other sections set forth in Title 35 of the United States
7 Code.

8 79. MOSAID is barred from asserting infringement by Powerchip of the '620 patent
9 because Powerchip is licensed to make products covered by the '620 patent pursuant to the terms of
10 license agreement(s) between MOSAID and one or more third parties.

11 80. The '620 patent is unenforceable due to laches, equitable estoppel, prosecution
12 laches, and/or inequitable conduct.

13 a. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
14 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to the '523, '620, '581 and
15 '448 patents and their predecessor applications were aware of U.S. Patent No. 5,150,325 ("the '325
16 patent") prior to the issuance of the '523, '620, '581 and '448 patents. For example, on April 5,
17 1991, Richard C. Foss, Peter B. Gillingham, Robert F. Harland, and Valerie C. Lines ("the Foss
18 inventors") filed U.S. Patent App. Ser. No. 07/680,994 (the "'994 application") which resulted in the
19 issuance of U.S. Patent No. 5,267,201 ("the '201 patent"). The Foss inventors filed several
20 applications claiming priority to the '994 application, each assigned to MOSAID or a predecessor,
21 including the applications that resulted in the issuance of the '523, '620, '581 and '448 patents. The
22 law firm of Antonelli, Terry, Stout & Kraus, prosecuted the '325 patent as well as the '201 and '523
23 patents. Gregory E. Montone and others at Antonelli, Terry, Stout & Kraus signed papers on behalf
24 of the applicants for submission to the PTO in both the prosecution of the '325 patent, as well as the
25 '201 and '523 patents. In addition, the '325 patent was identified to MOSAID by a potential
26 licensee and disclosed during the prosecution of other MOSAID applications. For example, on April
27 5, 1991, Ms. Lines filed U.S. Patent App. Ser. No. 07/680,746 ("the '746 application") which
28 resulted in the issuance of U.S. Patent No. 5,214,602 ("the '602 patent"). Upon information and

1 belief, the '325 patent was disclosed to the PTO during the prosecution of several applications
2 claiming priority to the '746 application, including U.S. Patent App. Ser. Nos. 08/5115,904;
3 08/611,558; and 08/705,534 ("the Lines applications"). Upon information and belief, the Lines
4 applications were prosecuted by the law firms of Antonelli, Terry, Stout & Kraus and Hamilton,
5 Brooke, Smith & Reynolds. P.C. For instance, James M. Smith of Hamilton, Brooke, Smith &
6 Reynolds. P.C. signed papers on behalf of the applicant during the prosecution of the Lines
7 applications. Mr. Smith also signed paper on behalf on the Foss inventors during the prosecution of
8 the '620 '581, and '448 patents and related applications. More than one Information Disclosure
9 Statement was submitted during the prosecution of the Lines applications that listed the '325 patent
10 and in which the applicant stated that the '325 patent, "may be the most pertinent." The '325 patent
11 was also the subject of rejections by the examiner and amendments and arguments by the applicant
12 during the prosecution of the Lines applications. Further, the examiner for the Lines applications
13 discussed the '325 patent with Mr. Smith, Ms. Lines, Peter B. Gillingham and Michael Vladescu
14 during an interview conducted on or about October 15, 1997. The information contained in the '325
15 patent is material to one or more claims of the '523, '620, '581 and '448 patents and/or their
16 predecessor applications. Nevertheless, the '325 patent was not disclosed to the United States Patent
17 and Trademark Office ("PTO") during the prosecution of the '523, '620, and '581 patents and their
18 predecessor applications. The '325 patent was not disclosed to the PTO during the prosecution of
19 the Foss family of patents until August 2002, after it was identified as prior art during litigation by
20 an alleged infringer. The '325 patent was one of 74 new references disclosed in a Request for
21 Continued Examination filed during the prosecution of U.S. Patent App. Serial No. US 09/819,488
22 on or about August 20, 2002, after the applicants received their second Notice of Allowability and
23 Notice of Allowance. The failure to disclose this material information was knowing, willful, and
24 done with the intent to deceive the PTO into issuing the '523, '620 and '581 patents. The '448
25 patent is a continuation of a patent related to the '523, '620, and '581 patents. As a result, the '523,
26 '620, '581 and '448 patents are unenforceable due to inequitable conduct and infectious
27 unenforceability.

1 b. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
2 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to the '523, '620, '581 and
3 '448 patents and their predecessor applications were aware of U.S. Patent No. 4,878,201 ("the '8,201
4 patent") prior to the issuance of the '523, '620, '581 and '448 patents. For example, on April 5,
5 1991, the Foss inventors filed U.S. Patent App. Ser. No. 07/680,994 which resulted in the issuance
6 of U.S. Patent No. 5,267,201 ("the '201 patent"). The Foss inventors filed several applications
7 claiming priority to the '994 application, each assigned to MOSAID or a predecessor, including U.S.
8 Patent No. 5,406,523 ("the '523 patent"). On April 5, 1991, Ms. Lines filed U.S. Patent App. Ser.
9 No. 07/680,746 ("the '746 application") which resulted in the issuance of U.S. Patent No. 5,214,602
10 ("the '602 patent") also assigned to MOSAID. The law firm of Antonelli, Terry, Stout & Kraus,
11 prosecuted the '746 application as well as the '201 and '523 patents. Gregory E. Montone and
12 others at Antonelli, Terry, Stout & Kraus signed papers on behalf of the applicants for submission to
13 the PTO in both the prosecution of the '746 application as well as the '201 and '523 patents.
14 Antonelli, Terry, Stout and Kraus were aware of the '8,201 patent from an office action dated
15 September 13, 1991 in the '746 application. Antonelli, Terry, Stout and Kraus submitted an IDS
16 disclosing prior art on April 2, 1993 during the prosecution of the '201 patent but failed to disclose
17 art cited by the examiner on September 13, 1991 in the '746 application, including the '8,201 patent.
18 The '8,201 patent was disclosed to the PTO during the prosecution of several applications ("the
19 Lines applications") claiming priority to the '746 application. For example, the applicant submitted
20 more than one Information Disclosure Statement during the prosecution of the Lines applications
21 that listed the '8,201 patent. In addition, the Lines applications were prosecuted by the law firms of
22 Antonelli, Terry, Stout & Kraus and Hamilton, Brooke, Smith & Reynolds. P.C. For instance, James
23 M. Smith of Hamilton, Brooke, Smith & Reynolds. P.C. signed papers on behalf of the applicants
24 during the prosecution of the Lines applications as well as during the prosecution of the '620 '581,
25 and '448 patents and related applications. The information contained in the '8,201 patent is material
26 to one or more claims of the '523, '620, '581 and '448 patents and/or their predecessor applications.
27 Nevertheless, the '8,201 patent was not disclosed to the United States Patent and Trademark Office
28 ("PTO") during the prosecution of the '523, '620, and '581 patents and their predecessor

1 applications. The '8,201 patent was not disclosed to the PTO during the prosecution of the Foss
2 family of patents until August 2002, after it was identified as prior art during litigation by an alleged
3 infringer. The '8,201 patent was one of 74 new references disclosed in a Request for Continued
4 Examination filed during the prosecution of U.S. Patent App. Serial No. US 09/819,488 on or about
5 August 20, 2002, after the applicants received their second Notice of Allowability and Notice of
6 Allowance. The failure to disclose this material information was knowing, willful, and done with
7 the intent to deceive the PTO into issuing the '523, '620, and '581 patents. The '448 patent is a
8 continuation of a patent related to the '523, '620, and '581 patents. As a result, the '523, '620, '581
9 and '448 patents are unenforceable due to inequitable conduct and infectious unenforceability.

10 c. Upon information and belief, the inventors of, prosecuting attorneys of, and/or other
11 individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to the '523, '620, '581 and
12 '448 patents and their predecessor applications were aware of a report titled "An Analysis of the
13 Hitachi HM511000/HM511001/HM511002 1Mx1 CMOS DRAMS" ("Hitachi Report") prior to the
14 issuance of the '523, '620, '581 and '448 patents. In the mid-late 1980's, MOSAID's business
15 included reverse engineering memory and other chips, drafting reports on those reverse engineering
16 studies, and selling those reports to customers. Prior to March 1988, MOSAID acquired samples of
17 Hitachi's HM511000, HM511001, and HM511002 Mx1 CMOS DRAMS. MOSAID studied and
18 analyzed those parts and published the Hitachi Report in March 1988. Some of the inventors of the
19 '523, '620, '581, and '448 patents participated in the drafting of the Hitachi Report and/or reviewed
20 the report. In addition, upon information and belief, on April 5, 1991, three Foss inventors (Messrs.
21 Foss, Gillingham and Harland), Masami Mitsuhashi, and Atsushi Wada filed U.S. Patent App. Ser.
22 No. 07/680,747 (the "'747 application") with the PTO. The '747 application was assigned to
23 MOSAID. Upon information and belief, the applicants filed U.S. Patent App. Ser. No. 08/147,038
24 (the "'038 application) on November 4, 1993 as a continuation of the '747 application. The '038
25 application was assigned to MOSAID and resulted in the issuance of U.S. Patent No. 5,414,662 (the
26 "'662 patent") on May 9, 1995. U.S. Patent App. Ser. No. 08/853,507 ("the '507 application"), a
27 reissue application of the '662 patent, was filed on May 8, 1997. Upon information and belief, Mr.
28 Gillingham, Mr. Vladescu, and Mr. Smith (at least) reviewed and disclosed certain MOSAID reverse

1 engineering reports to the PTO during the prosecution of the '507 application, including a portion of
2 the Hitachi Report. The information contained in the Hitachi Report is material to one or more
3 claims of the '523, '620, '581 and '448 patents and/or their predecessor applications. Nevertheless,
4 the Hitachi Report was not disclosed to the PTO during the prosecution of the '523, '620, '581 and
5 '448 patents and their predecessor applications. The failure to disclose this material information was
6 knowing, willful, and done with the intent to deceive the PTO into issuing the '523, '620, '581 and
7 '448 patents. As a result, the '523, '620, '581 and '448 patents are unenforceable due to inequitable
8 conduct.

9 81. A judicial declaration of noninfringement, invalidity, unenforceability, and license is
10 necessary and appropriate to resolve this controversy.

11 **COUNT IX**

12 **(Declaration of Noninfringement, Invalidity, Unenforceability, and License of**
13 **U.S. Patent No. 6,980,448)**

14 82. Powerchip incorporates and realleges the allegations set forth in the paragraphs above
15 as if set forth fully herein.

16 83. U.S. Patent No. 6,980,448 (the "'448 patent'") was filed on June 17, 2003 and issued
17 on December 27, 2005. The named inventors on the '448 patent are Richard C. Foss, Peter B.
18 Gillingham, Robert F. Harland, and Valerie L. Lines. A copy of the '448 patent is attached hereto as
19 Exhibit I.

20 84. Powerchip has not infringed and is not now infringing, directly or indirectly, any
21 valid claim of the '448 patent, either literally or under the doctrine of equivalents.

22 85. The '448 patent is invalid because it fails to meet the requirements for patentability as
23 set forth in 35 U.S.C. §§ 102, 103, 112 and/or other sections set forth in Title 35 of the United States
24 Code.

25 86. MOSAID is barred from asserting infringement by Powerchip of the '448 patent
26 because Powerchip is licensed to make products covered by the '448 patent pursuant to the terms of
27 license agreement(s) between MOSAID and one or more third parties.

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1 87. The '448 patent is unenforceable due to laches, equitable estoppel, prosecution
2 laches, and/or inequitable conduct (as detailed in paragraphs 79a-c above).

3 a. In addition, upon information and belief, the inventors of, prosecuting attorneys of,
4 and/or other individuals subject to the requirements of 37 C.F.R. § 1.56(c) with regard to the '448
5 patent were aware of at least a portion of W. Pribyl, et al., "New Concepts for Wordline Driving
6 Circuits in CMOS" (the "Pribyl Reference") prior to the issuance of the '448 patent. For example,
7 the Pribyl Reference was published at the Fourteenth European Solid-State Circuits Conference in
8 Manchester, UK held on September 21-23, 1988. Upon information and belief, on October 12,
9 2004, IBM provided a slide show presentation to MOSAID which included Figure 4 of the Pribyl
10 Reference. On information and belief, IBM asserted at the presentation that Figure 4 had been
11 disclosed in a printed publication prior to at least April 6, 1990. On information and belief, Michael
12 Vladescu and James Skippen of MOSAID attended this presentation. In addition, on information
13 and belief, on October 14, 2004, IBM provided James Skippen with a copy of the slide show. The
14 application for the '448 patent was filed on June 17, 2003 and the patent issued on December 27,
15 2005. The information contained in Figure 4 of the Pribyl Reference and the Pribyl Reference as a
16 whole is material to the patentability of one or more claims of the '448 patent. Nevertheless, the
17 Pribyl Reference, in whole or in part, was not disclosed to the PTO during the prosecution of the
18 '448 patent. The failure to disclose this material information was knowing, willful, and done with
19 the intent to deceive the PTO. As a result, the '448 patent is unenforceable due to inequitable
20 conduct.

21 88 A judicial declaration of noninfringement, invalidity, unenforceability, and license is
22 necessary and appropriate to resolve this controversy.

23 **COUNT X**

24 **(Declaration of Noninfringement, Invalidity, Unenforceability, and License**
25 **of U.S. Patent No. 6,236,581)**

26 89. Powerchip incorporates and realleges the allegations set forth in the paragraphs above
27 as if set forth fully herein.

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1 90. U.S. Patent No. 6,236,581 (the “‘581 patent”) was filed on January 14, 2000 and
2 issued on May 22, 2001. The named inventors on the ‘581 patent are Richard C. Foss, Peter B.
3 Gillingham, Robert F. Harland, and Valerie L. Lines. A copy of the ‘581 patent is attached hereto as
4 Exhibit J.

5 91. Powerchip has not infringed and is not now infringing, directly or indirectly, any
6 valid claim of the ‘581 patent, either literally or under the doctrine of equivalents.

7 92. The ‘581 patent is invalid because it fails to meet the requirements for patentability as
8 set forth in 35 U.S.C. §§ 102, 103, 112 and/or other sections set forth in Title 35 of the United States
9 Code.

10 93. MOSAID is barred from asserting infringement by Powerchip of the ‘581 patent
11 because Powerchip is licensed to make products covered by the ‘581 patent pursuant to the terms of
12 license agreement(s) between MOSAID and one or more third parties.

13 94. The ‘581 patent is unenforceable due to laches, equitable estoppel, prosecution
14 laches, and/or inequitable conduct (as detailed in paragraphs 79a-c above).

15 95. A judicial declaration of noninfringement, invalidity, unenforceability, and license is
16 necessary and appropriate to resolve this controversy.

17 **COUNT XI**

18 **(Declaration of Noninfringement, Invalidity, Unenforceability, and License of**
19 **U.S. Patent No. 5,406,523)**

20 96. Powerchip incorporates and realleges the allegations set forth in the paragraphs above
21 as if set forth fully herein.

22 97. U.S. Patent No. 5,406,523 (the “‘523 patent”) was filed on October 12, 1993 and
23 issued on April 11, 1995. The named inventors on the ‘523 patent are Richard C. Foss, Peter B.
24 Gillingham, Robert F. Harland, and Valerie L. Lines. A copy of the ‘523 patent is attached hereto as
25 Exhibit K.

26 98. Powerchip has not infringed and is not now infringing, directly or indirectly, any
27 valid claim of the ‘523 patent, either literally or under the doctrine of equivalents.

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1 99. The '523 patent is invalid because it fails to meet the requirements for patentability as
2 set forth in 35 U.S.C. §§ 102, 103, 112 and/or other sections set forth in Title 35 of the United States
3 Code.

4 100. MOSAID is barred from asserting infringement by Powerchip of the '523 patent
5 because Powerchip is licensed to make products covered by the '523 patent pursuant to the terms of
6 license agreement(s) between MOSAID and one or more third parties.

7 101. The '523 patent is unenforceable due to laches, equitable estoppel, prosecution
8 laches, and/or inequitable conduct (as detailed in paragraphs 79a-c above).101. A judicial
9 declaration of noninfringement, invalidity, unenforceability, and license is necessary and appropriate
10 to resolve this controversy.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Powerchip requests that this Court:

13 (a) Declare that Powerchip has not infringed, contributed to the infringement of, or
14 induced others to infringe, either directly or indirectly or either literally or under the doctrine of
15 equivalents, any valid claim of U.S. Patent Nos. 6,657,919; 6,992,950; 5,751,643; 5,822,253;
16 6,278,640; 6,603,703; 7,038,937; 5,828,620; 6,980,448; 6,236,581; and 5,406,523;

17 (b) Declare that U.S. Patent Nos. 6,657,919; 6,992,950; 5,751,643; 5,822,253; 6,278,640;
18 6,603,703; 7,038,937; 5,828,620; 6,980,448; 6,236,581; and 5,406,523 are invalid and/or
19 unenforceable;

20 (c) Declare that Powerchip is licensed to make products covered by U.S. Patent Nos.
21 6,657,919; 6,992,950; 5,751,643; 5,822,253; 6,278,640; 6,603,703; 7,038,937; 5,828,620;
22 6,980,448; 6,236,581; and 5,406,523 pursuant to the terms of license agreements between MOSAID
23 and one or more third parties.

24 (d) Declare that MOSAID's inequitable conduct in the prosecution of MOSAID's patents
25 and/or their related applications renders those patents unenforceable;

26 (e) Order that MOSAID, its agents, and all persons acting in concert or participation with
27 MOSAID, be enjoined from asserting claims against Powerchip for infringement of any of U.S.
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DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and United States District Court for the Northern District of California Local Rule 3-6, Intervenor hereby demands a jury trial.

DATED: August 11, 2008

DUANE MORRIS LLP

By: _____ /s/ Lina M. Brenner
LINA M. BRENNER
Attorneys for Intervenor
POWERCHIP SEMICONDUCTOR
CORPORATION