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13 JVC Americas Corporation

14
15
16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA

18
19 JVC AMERICAS CORPORATION,

20 Plaintiff,

21 v.

22 PATRIOT SCIENTIFIC CORPORATION,
23 CHARLES H. MOORE, TECHNOLOGY
24 PROPERTIES LIMITED, INC., and DANIEL E.
LECKRONE,

25 Defendants.
26
27
28

ORIGINAL
FILED

NOV 28 2005

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

C05 04845

Case No. _____

JCS
COMPLAINT FOR DECLARATORY
JUDGMENT

DEMAND FOR JURY TRIAL

1 Plaintiff JVC Americas Corporation (“JVC”), by and through its attorneys, alleges as
2 follows:

3 1. This is a civil action arising under the Patent Laws of the United States, 35 U.S.C.
4 §§101, *et seq.*, seeking declaratory judgment that United States Patent Numbers 5,809,336 (“336
5 patent”) 5,784,584 (“584 patent”), and 6,598,148 (“148 patent”) (collectively, “patents-in-suit”)
6 are invalid and not infringed by JVC.

7 **PARTIES**

8 2. Plaintiff JVC maintains its principal place of business in Wayne, New Jersey, and
9 manufactures and sells consumer, business, and industrial products in California.

10 3. Defendant Patriot Scientific Corporation (“Patriot”) is incorporated under the laws
11 of the State of Delaware, maintains its principal place of business at 10989 Via Frontera, San
12 Diego, California, 92127, and is engaged in the business of developing intellectual property,
13 integrated circuits, and systems level engineering.

14 4. Defendant Moore is an individual who, on information and belief, resides at 40
15 Cedar Lane, Sierra City, California, 96125, and has asserted a claim of partial ownership and co-
16 inventorship of the ‘336 patent.

17 5. Defendant Technology Properties Limited, Inc. (“TPL”) maintains its principal
18 place of business at 21730 Stevens Creek Blvd., Cupertino, California, 95014, and is engaged in
19 the business of selling and licensing intellectual property.

20 6. Defendant Leckrone is an individual who, on information and belief, is Chairman
21 of TPL, resides at 7029 Silver Fox, San Jose, California, 95120 and has asserted a claim of partial
22 ownership of the ‘336 patent.

23 7. Upon information and belief, Patriot and TPL claim to have co-ownership rights to
24 the patents-in-suit.

1 **JURISDICTION AND VENUE**

2 8. JVC brings this complaint against defendants pursuant to the patent laws of the
3 United States, Title 35 of the United States Code, with a specific remedy sought based upon the
4 laws authorizing actions for declaratory judgment in the courts of the United States, 28 U.S.C. §§
5 2201 and 2202.

6 9. This Court has subject matter jurisdiction over this action, which arises under the
7 patent laws of the United States, pursuant to 28 U.S.C. §§ 1331, 1338(a), and 2201.

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

9 **INTRA-DISTRICT ASSIGNMENT**

10 11. This action is properly filed in the Oakland Division of the Northern District of
11 California because defendants reside, or do business, in this district and defendants previously
12 filed a complaint for infringement of one of the patents-in-suit in this district.

13 **EXISTENCE OF AN ACTUAL CONTROVERSY**

14 12. There is an actual controversy within the jurisdiction of this Court under 28 U.S.C.
15 §§ 2201 and 2202.

16 13. On December 23, 2003 Patriot filed a patent infringement action against Fujitsu
17 Microelectronics America, Inc. ("Fujitsu") in the Northern District of California, Case No. 03-
18 5787 (SBA) ("Patriot Case") alleging infringement of the '336 patent. The Patriot Case was
19 assigned to Judge Armstrong of the Northern District of California. A copy of that complaint is
20 attached as Exhibit A.

21 14. On February 2, 2004, Intel Corporation filed a declaratory judgment action against
22 Patriot Scientific seeking a declaration that Intel and its customers do not infringe the '336 patent
23 ("Intel Case"). The Intel Case was assigned to Judge Armstrong of the Northern District of
24 California.

25 15. On February 13, 2004, Patriot sued Moore, TPL, and Leckrone in the Northern
26 District of California to resolve the ownership of the '336, '584, and other patents (the "Moore-
27 Fish patent portfolio"). That suit was assigned to District Judge Fogel of the Northern District of
28 California.

1 16. On March 11, 2004, Patriot Scientific filed a Consolidated Amended Complaint in
2 the Patriot Case before Judge Armstrong in Northern District of California adding Panasonic
3 Corporation of North America (then known as Matsushita Electrical Corporation of America),
4 NEC Solutions (America), Inc., Sony Electronics Inc., Toshiba America, Incorporated, Moore,
5 TPL, and Leckrone as defendants. A copy of that complaint is attached as Exhibit B.

6 17. JVC sells products in California that include microprocessors purchased from
7 Matsushita.

8 18. On May 24, 2004, Patriot sent a letter to JVC stating that “we would vastly prefer
9 to administer a licensing program rather than a litigation program. We regard litigation as the last
10 step, but we assume we have proven we are willing to take that step.”

11 19. On June 8, 2004, District Judge Armstrong ordered the Patriot Case and the Intel
12 Case stayed pending resolution of Patriot Scientific’s and TPL’s dispute concerning ownership of
13 the Moore-Fish patent portfolio.

14 20. On June 13, 2005, TPL reported to Judge Armstrong that Patriot Scientific and
15 TPL settled the dispute concerning ownership of the Moore-Fish patent portfolio by stipulated
16 final judgment signed by District Judge Fogel on June 9, 2005. It also reported that it had been
17 granted complete authority to enforce the '336 patent as well as the rest of the Moore-Fish patent
18 portfolio.

19 21. On June 22, 2005, Intel and Patriot Scientific stipulated to dismiss Intel’s
20 declaratory judgment action against Patriot Scientific and Judge Armstrong signed an order
21 dismissing that case with prejudice.

22 22. On June 29, 2005, TPL stated in a joint case management conference statement in
23 the Patriot case that it had been “placed in charge of the infringement litigation” and that “TPL
24 will file a supplemental and/or amended pleading substituting itself for Patriot.”

25 23. On July 14, 2005, Judge Armstrong held a telephonic Case Management
26 Conference in the consolidated action. At the conference, TPL’s counsel reported that TPL had
27 the sole right to assert the '336 patent in litigation and to license or settle claims relating to that
28 patent. He stated that TPL was negotiating with the defendants and that if it were necessary to

1 continue the litigation, TPL would file a new complaint substituting itself as the plaintiff in the
2 Patriot action. TPL requested that the Court stay the action for 60 days. Judge Armstrong
3 granted TPL's request, ordered the parties to file a Joint Case Management Statement on
4 September 23, and scheduled a telephonic Case Management Conference to be held on
5 September 29, 2005.

6 24. On September 23, 2005, the parties filed a Joint Case Management Conference
7 Statement in which TPL asked for an additional 60-day continuation of the stay to continue
8 settlement discussions. In the alternative, TPL requested 30 days to "file a supplemental and/or
9 amended pleading substituting itself for [Patriot], [and to] submit proposed dates for discovery
10 cut-off, motion cut-off, pretrial, and trial."

11 25. On October 4, 2005, Judge Armstrong denied TPL's request for stay and granted
12 TPL until October 24, 2005 to file an amended pleading substituting itself as plaintiff. Judge
13 Armstrong set a Case Management Conference for November 9, 2005, and ordered the parties to
14 submit a joint Case Management Conference Statement 10 days before the conference.

15 26. On October 24, 2005, Patriot voluntarily dismissed its complaint in the Patriot
16 Case against all of the defendants in that case, but TPL failed to file an amended pleading
17 substituting itself as plaintiff.

18 27. Several hours earlier on the same day that they dismissed their complaint in the
19 Patriot Case, and despite representing to Judge Armstrong that they would re-file their complaint
20 naming TPL as the plaintiff, defendants forum shopped their case to a jurisdiction they considered
21 more favorable and filed a complaint for infringement of the patents-in-suit against JVC in the
22 Eastern District of Texas, *Technology Properties Limited, Inc. v. Fujitsu, et al.*, 2-05 CV-494.

23 28. JVC denies infringement of the patents-in-suit and dispute their validity.
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1 **FIRST CLAIM**
2 **DECLARATORY JUDGMENT OF NONINFRINGEMENT OF THE '336 PATENT**

3 29. JVC hereby restates and realleges the allegations set forth in paragraphs 1 through
4 28 and incorporates them by reference.

5 30. JVC does not infringe any valid or enforceable claim of the '336 patent.

6 31. Such a declaration is necessary and appropriate at this time so that JVC can
7 ascertain its rights and duties with respect to designing, developing, marketing and selling its
8 products.

9 **SECOND CLAIM**
10 **DECLARATORY JUDGMENT OF NONINFRINGEMENT OF THE '584 PATENT**

11 32. JVC hereby restates and realleges the allegations set forth in paragraphs 1 through
12 31 and incorporates them by reference.

13 33. JVC does not infringe any valid or enforceable claim of the '584 patent.

14 34. Such a declaration is necessary and appropriate at this time so that JVC can
15 ascertain its rights and duties with respect to designing, developing, marketing and selling its
16 products.

17 **THIRD CLAIM**
18 **DECLARATORY JUDGMENT OF NONINFRINGEMENT OF THE '148 PATENT**

19 35. JVC hereby restates and realleges the allegations set forth in paragraphs 1 through
20 34 and incorporates them by reference.

21 36. JVC does not infringe any valid or enforceable claim of the '148 patent.

22 37. Such a declaration is necessary and appropriate at this time so that JVC can
23 ascertain its rights and duties with respect to designing, developing, marketing and selling its
24 products.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, JVC prays for judgment as follows:

27 1. Declaring that JVC and its products do not infringe any valid or enforceable claims
28 of the patents-in-suit;

EXHIBIT A

E-filing

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ORIGINAL
FILED

DEC 23 2003

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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

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8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10 PATRIOT SCIENTIFIC CORPORATION,

11 Plaintiff,

12 v.

13 FUJITSU MICROELECTRONICS AMERICA,
14 INC.,

15 Defendant.

Cas. No. 03 5787 WDB

COMPLAINT FOR PATENT
INFRINGEMENT

JURY TRIAL DEMANDED

1 Plaintiff Patriot Scientific Corporation ("Patriot Scientific"), by its attorneys, Bramson,
2 Plutzik Mahler & Birkhaeuser, LLP and Beatie and Osborn LLP, for its Complaint against
3 defendant Fujitsu Microelectronics America, Inc. ("Fujitsu"), alleges:

4 1. This is a civil action arising under the Patent Laws of the United States, 35 U.S.C.
5 §§ 101, *et seq.*, for damages and injunctive relief pursuant to 35 U.S.C. §§ 271, *et seq.*

6 I. PARTIES

7 2. Plaintiff Patriot Scientific is incorporated under the laws of the State of Delaware;
8 maintains its principal place of business at 10989 Via Frontera, San Diego, California; and is
9 engaged in the business of developing and owning intellectual property, integrated circuits, and
10 systems level engineering.

11 3. Defendant Fujitsu maintains its principal place of business at 250 East Arques
12 Avenue, MS 333, Sunnyvale, California; and is engaged in the business of, among other things,
13 providing semiconductor products and services for networking, communications, automotive,
14 security, and other markets throughout the United States, including the State of California.

15 II. JURISDICTION AND VENUE

16 4. This Court has original jurisdiction over this action under 28 U.S.C. §§ 1331 and
17 1338(a) because this action arises under the patent laws of the United States.

18 5. This action is properly venued in this district under 28 U.S.C. §§ 1391(c) and
19 1400(b) because defendant does business in this district and committed acts of patent infringement
20 in this district.

21 III. FACTUAL BACKGROUND

22 6. On September 15, 1998, United States Patent No. 5,809,336 entitled "High
23 Performance Microprocessor Having Variable Speed System Clock" ("336 Patent") was duly and
24 legally issued naming Charles H. Moore and Russell H. Fish, III, as inventors and Patriot Scientific
25 as assignee. A copy of the '336 Patent is attached as Exhibit A.

26 7. Patriot Scientific is an owner of rights, title, and interest in the '336 Patent, including
27 the right to bring this action for injunctive relief and damages.

1 systems which include but are not limited to the Fujitsu Products without authority or license from
2 Patriot Scientific, and in violation of Patriot Scientific's rights, and therefore infringes the '336
3 Patent.

4 14. The unlawful infringing activity by the defendant is continuing and will continue
5 unless enjoined by this Court.

6 15. Defendant has had actual knowledge of the '336 Patent and has willfully,
7 deliberately, and intentionally infringed the claims of the '336 Patent.

8 16. The acts of infringement by the defendant have damaged Patriot Scientific and
9 unless the infringement is enjoined by this Court, plaintiff will suffer further damage.

10 17. The amount of money damages suffered by Patriot Scientific from the acts of
11 infringement by defendant cannot be determined without discovery, and is, therefore, subject to
12 proof at trial.

13 18. Patriot Scientific is entitled to a complete accounting of all revenue derived by
14 defendant from the unlawful conduct alleged in this Complaint. In addition, the harm to Patriot
15 Scientific from defendant's acts of infringement is not fully compensable by money damages.

16 19. Patriot Scientific has suffered, and continues to suffer, irreparable harm, has no
17 adequate remedy at law, and will continue to suffer irreparable harm unless defendant's conduct is
18 enjoined. Patriot Scientific, therefore, also requests a preliminary injunction and a permanent
19 injunction at the entry of judgment, to prevent additional infringement.

20 V. SECOND CLAIM FOR RELIEF

21 [Inducement of Infringement of U.S. Patent No. 5,809,336 Under 35 U.S.C. § 271(b)]

22 20. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through
23 19 of the Complaint as if they were set forth here in full.

24 21. Defendant has actively induced, and is now inducing, infringement of the '336
25 Patent by selling within the United States, including specifically California, devices and/or systems
26 which include but are not limited to the Fujitsu Products and teaching users to use those devices
27 and/or systems in a manner which infringes one or more claims of the '336 Patent in violation of 35
28 U.S.C. § 271(b).

VII. FOURTH CLAIM FOR RELIEF

[Unjust Enrichment]

1
2
3 30. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through
4 29 of the Complaint as if they were set forth here in full.

5 31. Defendant has no right, title, or interest in or to the '336 Patent or any other property
6 of Patriot Scientific.

7 32. Defendant has benefited, at the expense of Patriot Scientific, from defendant's
8 exploitation, marketing, manufacturing, assembling, sale, offering to sell, importing, or distributing
9 the inventions revealed and claimed in the '336 Patent.

10 33. Defendant has obtained or will obtain considerable profits and market share by the
11 unauthorized manufacturing, assembling, use, sale, offering to sell, importing, distribution, and
12 exploitation of the inventions claimed in the '336 Patent.

13 34. Defendant has known of the '336 Patent and has known of the benefit it has derived
14 from the unauthorized manufacture, assembling, use, sale, offering to sell, importing, distribution,
15 and exploitation of the inventions claimed in the '336 Patent.

16 35. Defendant is not entitled to any profits or market share by way of the exploitation,
17 marketing, manufacture, assembling, sale, offering to sell, importing, or distribution of the
18 inventions revealed and claimed in the '336 Patent.

19 36. It is unjust and inequitable for defendant to retain the profits and market share
20 derived from its unauthorized manufacture, assembling, use, sale, offering to sell, importing,
21 distribution, and exploitation of the inventions claimed in the '336 Patent, without payment of fair
22 value to Patriot Scientific.

23 **VIII. PRAYER FOR RELIEF**

24 WHEREFORE, plaintiff Patriot Scientific respectfully prays for relief and judgment against
25 the defendant as follows:

26 (a) that the Court adjudges U.S. Patent No. 5,809,336 valid, enforceable, and infringed
27 by the defendant;

1 (b) permanently enjoining the defendant, its representatives, assignees or successors, or
2 any subsidiaries, divisions, agents, servants, employees of the defendant, and/or those in privity
3 with the defendant from infringing, contributing to the infringement of, and inducing infringement
4 of U.S. Patent No. 5,809,336, and for all further and proper injunctive relief pursuant to 35 U.S.C.
5 § 283;

6 (c) for an order directing defendant to account for all revenue derived from the unlawful
7 conduct alleged in this Complaint;

8 (d) for an order awarding plaintiff Patriot Scientific monetary damages from the
9 defendant for past infringement, including but not limited to a reasonable royalty, plus applicable
10 pre- and post-judgment interest, and costs to which plaintiff is entitled under 35 U.S.C. § 284, as
11 well as attorneys' fees pursuant to 35 U.S.C. § 285 or other applicable law;

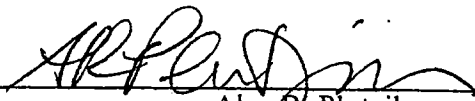
12 (e) for an order, pursuant to 35 U.S.C. § 284, awarding up to treble damages for the
13 willful, deliberate, and intentional infringement by the defendant; and

14 (f) for any other relief this Court deems just and proper under the circumstances.

15 **JURY TRIAL DEMAND**

16 Plaintiff respectfully requests a trial by jury on all triable issues pursuant to Rule 38 of the
17 Federal Rules of Civil Procedure.

18 Dated: December 22, 2003 BRAMSON, PLUTZIK, MAHLER & BIRKHAUSER, LLP

19
20 
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EXHIBIT B

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10 Of Counsel: John E. Lynch

11 Attorneys for Plaintiff

12
13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15
16 PATRIOT SCIENTIFIC CORPORATION,
17 Plaintiff,

18 v.

19 FUJITSU COMPUTER SYSTEMS
CORPORATION, MATSUSHITA ELECTRIC
20 CORPORATION OF AMERICA, NEC
SOLUTIONS (AMERICA), INC., SONY
21 ELECTRONICS INC., TOSHIBA AMERICA,
INC., CHARLES H. MOORE, TECHNOLOGY
22 PROPERTIES LTD., and DANIEL E.
23 LECKRONE,
24 Defendants.

Civil Action No. C 03 5787 (SBA/WDB)

**CONSOLIDATED AMENDED
COMPLAINT FOR PATENT
INFRINGEMENT**

[JURY TRIAL DEMANDED]

1 Plaintiff Patriot Scientific Corporation ("Patriot"), by its attorneys, Bramson, Plutzik,
2 Mahler & Birkhaeuser LLP and Beatie and Osborn LLP, for its Consolidated Amended Complaint
3 ("Complaint") against defendants Fujitsu Computer Systems Corporation ("Fujitsu"), Matsushita
4 Electric Corporation of America ("Matsushita"), NEC Solutions (America), Inc. ("NEC"), Sony
5 Electronics Inc. ("Sony"), Toshiba America, Inc. ("Toshiba") (collectively, "Infringing
6 Defendants"), Charles H. Moore ("Moore"), Technology Properties Ltd. ("TPL"), and Daniel E.
7 Leckrone ("Leckrone"), alleges:

8 1. This is a civil action arising under the Patent Laws of the United States, 35 U.S.C.
9 §§ 101, *et seq.*, for damages and injunctive relief pursuant to 35 U.S.C. §§ 271, *et seq.*, and for
10 declaratory judgment for determination and correction of inventorship and ownership of a patent
11 and its family of patents pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202,
12 and 35 U.S.C. §§ 116 and 256.

13 PARTIES

14 2. Plaintiff Patriot is incorporated under the laws of the State of Delaware; maintains
15 its principal place of business at 10989 Via Frontera, San Diego, California; and is engaged in the
16 business of developing and owning intellectual property, integrated circuits, and systems level
17 engineering.

18 3. Patriot is the named assignee of United States Patent No. 5,809,336 entitled "HIGH
19 PERFORMANCE MICROPROCESSOR HAVING VARIABLE SPEED SYSTEM CLOCK"
20 ("336 Patent").

21 4. Defendant Fujitsu maintains its principal place of business at 1250 East Arques
22 Avenue, M/S 122, Sunnyvale, California 94085; and is engaged in the business of, among other
23 things, providing semiconductor products and services for networking, communications,
24 automotive, security, and other markets throughout the United States, including the State of
25 California.

26 5. Defendant Matsushita maintains its principal place of business at One Panasonic
27 Way, Secaucus, New Jersey; and is engaged in the business of the manufacture and sale of
28 consumer, business, and industrial products in the United States, including the State of California.

1 6. Defendant NEC maintains its principal place of business at 10850 Gold Center
2 Drive, Suite 200, Rancho Cordova, California 95670; and is engaged in the business of the
3 manufacture of communications, computers and electronic components in the United States,
4 including the State of California.

5 7. Defendant Sony maintains its principal place of business at 1 Sony Drive, Park
6 Ridge, New Jersey 07656; and is engaged in the business of, among other things, the manufacture
7 of audio, video, communications, and information technology products for consumer and
8 professional markets in the United States, including the State of California.

9 8. Defendant Toshiba maintains its principal place of business at 1251 Avenue of the
10 Americas, New York, New York; and is engaged in the business of, among other things, marketing
11 and manufacturing information and communication systems, electronic components, heavy
12 electrical apparatus, consumer products, and medical diagnostic imaging equipment in the United
13 States, including the State of California.

14 9. Defendant Moore is an individual, resides at 40 Cedar Lane, Sierra City, California,
15 and through his agent has asserted a claim of partial ownership and co-inventorship of the '336
16 Patent.

17 10. Defendant TPL maintains its principal place of business in San Jose, California, is
18 engaged in the business of selling and licensing intellectual property, and through its agent has
19 asserted a claim of partial ownership of the '336 Patent.

20 11. Defendant Leckrone is an individual, is Chairman of TPL, resides at 4010 Moorpark
21 Avenue, #215, San Jose, California, and has asserted, on behalf of Moore and TPL, a claim of
22 partial ownership of the '336 Patent.

23 12. Pursuant to Rule 19 of the Federal Rules of Civil Procedure, on January 28, 2004,
24 Patriot invited Moore, TPL, and Leckrone to join the litigation voluntarily as co-plaintiffs with
25 Patriot; but they declined. Therefore, Patriot has joined them as defendants.

JURISDICTION AND VENUE

1
2 13. This Court has original jurisdiction over this action under 28 U.S.C. §§ 1331 and
3 1338(a) because this action arises under the patent laws of the United States and under the
4 Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

5 14. As required by Article III of the United States Constitution and the Declaratory
6 Judgment Act, 28 U.S.C. § 2201, an actual controversy exists between Patriot and defendants
7 Moore, TPL, and Leckrone over the inventorship and ownership of the '336 Patent. The proper
8 assertion of these rights are critical to the enforcement of the patent and the validity of the patent.

9 15. Patriot claims sole ownership of all right, title, and interest in the '336 Patent; but
10 through defendant Leckrone defendants Moore, TPL, and Leckrone claim partial inventorship and
11 partial ownership of the '336 Patent, claim to be co-owners of the '336 Patent with Patriot, and
12 demand compensation for their interest in the '336 Patent.

13 16. This action is properly venued in this district under 28 U.S.C. §§ 1391(c) and
14 1400(b) because defendants reside in or do business in this district; and/or committed acts of patent
15 infringement in this district.

16 17. In addition, on February 18, 2004, the Infringing Defendants consented by
17 Stipulation to the jurisdiction and venue of this Court. A copy of the Stipulation is attached as
18 Exhibit A.

RELATED ACTIONS

19
20 18. This action is related to the actions titled *Patriot Scientific Corporation v. Moore, et*
21 *al.*, No. C 04 0618 JCS, and *Intel Corporation v. Patriot Scientific Corporation*, No. C 04 0439
22 JCS, which are pending in the Oakland Division of this district.

FACTUAL BACKGROUND

23
24 19. On September 15, 1998, the Patent and Trademark Office issued the '336 Patent
25 naming Moore and Russell H. Fish, III ("Fish"), as inventors and Patriot as assignee. A copy of the
26 '336 Patent is attached as Exhibit B.

27 20. Fish solely conceptualized the technology claimed by the '336 Patent and solely
28 owned the rights, title, and interest in the '336 Patent.

1 21. Fish assigned the '336 Patent to the Fish Family Trust, the Fish Family Trust
2 assigned the '336 Patent to Nanotronics Corporation ("Nanotronics"), and Nanotronics assigned the
3 '336 Patent to Patriot.

4 22. These assignments were duly recorded in the United States Patent and Trademark
5 Office as follows: Reel/Frame 005852/0465, recorded September 26, 1991; Reel/Frame
6 005978/0672, recorded January 21, 1992; and Reel/Frame 008194/0013, recorded October 28,
7 1996.

8 23. Patriot is therefore sole owner of all right, title, and interest in the '336 Patent,
9 including the right to bring this action for injunctive relief and damages.

10 24. Through defendant Leckrone defendants Moore, TPL, and Leckrone have asserted a
11 claim for partial inventorship and partial ownership of the '336 Patent and claim to be co-owners of
12 the '336 Patent with Patriot.

13 25. Through Leckrone, defendants TPL and Leckrone assert that Moore assigned an
14 ownership interest in the '336 Patent to TPL and Leckrone.

15 26. Patriot disputes the claims of inventorship and ownership by Moore and partial
16 ownership by TPL and Leckrone and requests this Court to resolve the issues of inventorship and
17 ownership.

18 27. The Infringing Defendants have made, used, sold, offered to sell, imported, and/or
19 distributed within the United States, including specifically within the State of California,
20 computers, laptop computers, and/or server systems which include but are not limited to the
21 following:

22 Fujitsu:

23 C Series;

24 E7000;

25 E2000;

26 S6000;

27 CELSIUS; and

28 Stylistic ST4000 ("Fujitsu Products")

1 Matsushita:

2 Toughbook 01;

3 Toughbook 07;

4 Toughbook 18;

5 Toughbook 28;

6 Toughbook 34;

7 Toughbook 48;

8 Toughbook 50;

9 Toughbook 72;

10 Toughbook R1;

11 Toughbook T1;

12 DMR-HS2;

13 DMR-E80H;

14 DMR-E60S;

15 DMR-E30K;

16 DMR-E30S;

17 DMR-E50K; and

18 DMR-E50S ("Matsushita Products")

19

20 NEC:

21 Versa LitePad;

22 MobilePro P300;

23 MobilePro 790; and

24 Versa E120 DayLite ("NEC Products")

25

26 Sony:

27 VAIO V505A Series;

28 VAIO PCG-GRX700 CTO - LP4M;

1 VAIO PCG-GRX700 CTO - Power;
2 VAIO PCG-GRX700 CTO - Works;
3 VAIO PCG-GRS700 CTO - LP4M;
4 VAIO PCG-GRS700 CTO - Basic;
5 VAIO PCG-GRS700 CTO - Power;
6 VAIO RZ simple;
7 VAIO RZ gamer;
8 VAIO RZ UDL;
9 VAIO W Series;
10 RDR-GX7;
11 DAV-C990; and
12 SLV-D300P ("Sony Products")

13
14 Toshiba:

15 Satellite A10;
16 Satellite A35;
17 Satellite M30;
18 Satellite P10;
19 Satellite P25;
20 Tecra S1;
21 Portege M100;
22 Portege 3500; and
23 Portege R100 ("Toshiba Products").

24 28. Defendants Fujitsu, Matsushita, NEC, Sony, and Toshiba have made, used, sold,
25 offered to sell, imported, and/or distributed devices and/or systems which include but are not
26 limited to the Fujitsu Products, Matsushita Products, NEC Products, Sony Products, and Toshiba
27 Products, respectively, in accordance with the principles and claims of the '336 Patent.
28

1 which include but are not limited to the Fujitsu Products, Matsushita Products, NEC Products,
2 Sony Products, and Toshiba Products, respectively, that come within a range of equivalents of the
3 claims of the '336 Patent, and therefore infringe one or more claims of the '336 Patent.

4 38. Defendants Fujitsu, Matsushita, NEC, Sony, and Toshiba have made, used, sold,
5 offered to sell, imported, and/or distributed within the United States, including specifically
6 California, infringing devices and/or systems which include but are not limited to the Fujitsu
7 Products, Matsushita Products, NEC Products, Sony Products, and Toshiba Products, respectively,
8 without authority or license from Patriot, and in violation of Patriot's rights, and therefore infringe
9 the '336 Patent.

10 39. The unlawful infringing activity by the Infringing Defendants is continuing and will
11 continue unless enjoined by this Court.

12 40. The Infringing Defendants have had actual knowledge of the '336 Patent and have
13 willfully, deliberately, and intentionally infringed the claims of the '336 Patent.

14 41. The acts of infringement by the Infringing Defendants have damaged Patriot and
15 unless the infringement is enjoined by this Court, plaintiff will suffer further damage.

16 42. The amount of money damages suffered by Patriot from the acts of infringement by
17 Infringing Defendants cannot be determined without discovery, and is, therefore, subject to proof at
18 trial.

19 43. Patriot is entitled to a complete accounting of all revenue derived by the Infringing
20 Defendants from the unlawful conduct alleged in this Complaint. In addition, the harm to Patriot
21 from the Infringing Defendants' acts of infringement is not fully compensable by money damages.

22 44. Patriot has suffered, and continues to suffer, irreparable harm, has no adequate
23 remedy at law, and will continue to suffer irreparable harm unless the Infringing Defendants'
24 conduct is enjoined. Patriot, therefore, also requests a preliminary injunction and a permanent
25 injunction at the entry of judgment, to prevent additional infringement.

1 **FOURTH CLAIM FOR RELIEF**
2 **(Inducement of Infringement of U.S. Patent No. 5,809,336 Under 35 U.S.C. § 271(b))**

3 45. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through
4 28 of the Complaint as if they were set forth here in full.

5 46. Defendants Fujitsu, Matsushita, NEC, Sony, and Toshiba have actively induced, and
6 are now inducing, infringement of the '336 Patent by selling within the United States, including
7 specifically California, devices and/or systems which include but are not limited to the Fujitsu
8 Products, Matsushita Products, NEC Products, Sony Products, and Toshiba Products, respectively,
9 and teaching users to use those devices and/or systems in a manner which infringes one or more
10 claims of the '336 Patent in violation of 35 U.S.C. § 271(b).

11 47. The Infringing Defendants have unlawfully derived, and continue to derive, income
12 and profits by inducing others to infringe the '336 Patent; and Patriot has suffered, and continues to
13 suffer, damages because of the Infringing Defendants' inducement to infringe the '336 Patent.

14 48. Patriot has suffered, and will continue to suffer, irreparable damage for which it has
15 no adequate remedy at law because of the Infringing Defendants' inducement of others to infringe
16 the '336 Patent, and will continue to be harmed unless the Infringing Defendants are enjoined from
17 further acts of inducement.

18 **FIFTH CLAIM FOR RELIEF**
19 **(Contributory Infringement of U.S. Patent No. 5,809,336 Under 35 U.S.C. § 271(c))**

20 49. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through
21 28 of the Complaint as if they were set forth here in full.

22 50. Defendants Fujitsu, Matsushita, NEC, Sony, and Toshiba have offered to sell or
23 have sold within the United States components of the Fujitsu Products, Matsushita Products, NEC
24 Products, Sony Products, and Toshiba Products, respectively, claimed in the '336 Patent, and
25 apparatus for use in practicing the processes claimed in the '336 Patent.

26 51. In violation of 35 U.S.C. § 271(c), the components and apparatus constitute a
27 material part of the inventions in the '336 Patent and were especially made or especially adapted for
28

1 use in an infringement of the '336 Patent and were not a staple article or commodity of commerce
2 suitable for substantial noninfringing uses.

3 52. The Infringing Defendants will continue to contribute to the infringement of the '336
4 Patent unless enjoined by this Court.

5 53. The Infringing Defendants have derived, and continue to derive, unlawful profits by
6 contributing to the infringement of the '336 Patent, and Patriot has suffered, and continues to suffer,
7 damages because of the Infringing Defendants' contributory infringement of the '336 Patent.

8 54. Patriot has suffered, and will continue to suffer, irreparable harm because of the
9 Infringing Defendants' contributory infringement of the '336 Patent, unless the Infringing
10 Defendants are enjoined from further contributory infringement.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, plaintiff Patriot respectfully prays for an order:

- 13 (1) adjudging Fish the sole inventor of the '336 Patent;
- 14 (2) adjudging Patriot the sole owner of the '336 Patent;
- 15 (3) pursuant to 35 U.S.C. §§ 116 and 256, directing the Director of the United States
16 Patent and Trademark Office to issue certificates correcting the inventorship and ownership of the
17 '336 Patent;
- 18 (4) adjudging U.S. Patent No. 5,809,336 valid, enforceable, and infringed by the
19 Infringing Defendants;
- 20 (5) permanently enjoining the Infringing Defendants, their representatives, assignees or
21 successors, or any subsidiaries, divisions, agents, servants, employees of the defendant, and/or
22 those in privity with the Infringing Defendants from infringing, contributing to the infringement of,
23 and inducing infringement of U.S. Patent No. 5,809,336, and for all further and proper injunctive
24 relief pursuant to 35 U.S.C. § 283;
- 25 (6) directing the Infringing Defendants to account for all revenue derived from the
26 unlawful conduct alleged in this Complaint;
- 27 (7) awarding plaintiff Patriot monetary damages from the Infringing Defendants for
28 past infringement, including but not limited to a reasonable royalty, plus applicable pre- and post-

1 judgment interest, and costs to which plaintiff is entitled under 35 U.S.C. § 284, as well as
2 attorneys' fees pursuant to 35 U.S.C. § 285 or other applicable law;

3 (8) pursuant to 35 U.S.C. § 284, awarding up to treble damages for willful, deliberate,
4 and intentional infringement by the Infringing Defendants; and

5 (9) granting any other relief this Court deems just and proper under the circumstances.

6 **JURY TRIAL DEMAND**

7 Plaintiff respectfully requests a trial by jury on all triable issues pursuant to Rule 38 of the
8 Federal Rules of Civil Procedure.

9
10 Dated: March 11, 2004

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12
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BEFORE THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

----- x
IN RE: MULTIDISTRICT PATENT
LITIGATION INVOLVING U.S.
PATENT NO. 5,809,336
----- x

: MDL Docket No. MDL-1605

: STIPULATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

----- x
PATRIOT SCIENTIFIC CORPORATION,

Plaintiff,

: Civil Action No. C 03 5787

v.

FUJITSU MICROELECTRONICS AMERICA,
INC.,

Defendant.
----- x

EXHIBIT NO. A

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

----- X
PATRIOT SCIENTIFIC CORPORATION,

Plaintiff,

v.

MATSUSHITA ELECTRIC CORPORATION OF
AMERICA,

Defendant.
----- X

Civil Action No. 2:03 CV 06210

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
PATRIOT SCIENTIFIC CORPORATION,

Plaintiff,

v.

NEC USA, INC.,

Defendant.
----- X

Civil Action No. CV 03 6432

WHEREAS, the parties to this Stipulation desire to consolidate the '336 Actions into one action before Honorable Sandra Brown Armstrong, United States District Court, Northern District of California, Oakland Division, to whom the Fujitsu Action has been assigned; and

WHEREAS, the parties do not desire to engage in further motion practice before the Judicial Panel;

NOW, THEREFORE, THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

1. The Matsushita Action, NEC Action, SCA Action, and Toshiba Action are dismissed without prejudice and without costs to any party;
2. The MDL Motion is withdrawn without prejudice and without costs to any party;
3. Within ten days of the execution of this Stipulation, counsel for defendant Fujitsu shall provide to counsel for Patriot the name and address of the Fujitsu entity or entities which manufactured or sold, in the United States, the products accused of infringing the '336 Patent in the Complaint against Fujitsu;
4. Within ten days of the execution of this Stipulation, counsel for defendant NEC shall provide to counsel for Patriot the name and address of the NEC entity or entities which manufactured or sold, in the United States, the products accused of infringing the '336 Patent in the Complaint against NEC;
5. Within ten days of the execution of this Stipulation, counsel for defendant SCA shall provide to counsel for Patriot the name and address of the SCA-related entity or entities which manufactured or sold, in the United States, the products accused of

infringing the '336 Patent in the Complaint against SCA (the new Fujitsu, NEC and SCA-related entities will be referred to collectively in this Stipulation as ("Substituted Defendants");

6. Patriot shall within twenty days of execution of this Stipulation file a Consolidated Amended Complaint against defendants Matsushita, Toshiba, and the Substituted Defendants in the United States District Court for the Northern District of California, Oakland Division, in the Fujitsu Action, asserting, among other things, the same claims against each defendant;

7. Nothing in this Stipulation shall expand or limit Patriot's right to take discovery regarding products not accused of infringement in the '336 Actions or to amend its Consolidated Amended Complaint to allege infringement of additional products not accused of infringement in the '336 Actions.

8. Patriot shall serve by mail, facsimile, e-mail, or any other reasonable and reliable means the Consolidated Amended Complaint on counsel for the defendants and Substituted Defendants and counsel agree to accept this service on behalf of the defendants and Substituted Defendants;

9. Defendants and Substituted Defendants agree to the jurisdiction and venue of the United States District Court for the Northern District of California, Oakland Division;

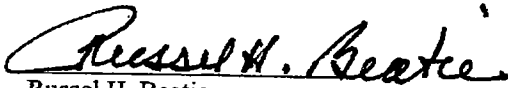
10. Defendants and Substituted Defendants consent to the assignment for trial and other proceedings of the consolidated action to Honorable Sandra Brown Armstrong, United States District Court for the Northern District of California, Oakland Division;

11. Defendants and Substituted Defendants waive any right to assert objections about personal jurisdiction, subject matter jurisdiction, and venue for the consolidated action;

12. The dates of the filing and service of the original Complaints shall be the dates for purposes of determining damages, notice, and statutes of limitations; and

13. This Stipulation may be signed in counterparts, and the signing of separate duplicates and/or faxed duplicates of this Stipulation shall have the same force and effect as if signing the original.

Dated: New York, New York
February 11, 2004



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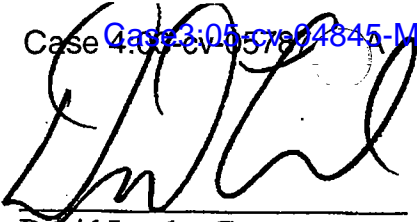
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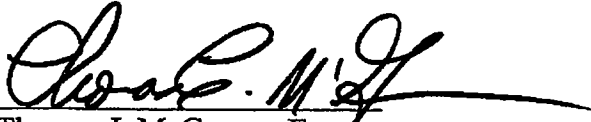
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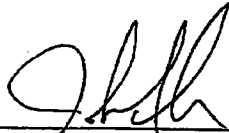
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