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24 Intergraph Hardware Technologies Company

25 UNITED STATES DISTRICT COURT
26 NORTHERN DISTRICT OF CALIFORNIA
27 SAN FRANCISCO DIVISION

28 INTERGRAPH HARDWARE
TECHNOLOGIES COMPANY,
a Nevada corporation,

Plaintiff,

v.

- (1) TOSHIBA CORPORATION, a Japanese corporation,
- (2) TOSHIBA AMERICA INFORMATION SYSTEMS, INC., a California corporation,
- (3) TOSHIBA AMERICA MEDICAL SYSTEMS, INC., a California corporation,

Case No. C 06-04018 MHP

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

DEMAND FOR JURY TRIAL

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- 1 (4) TOSHIBA AMERICA BUSINESS SOLUTIONS, INC., a California corporation,
- 2
- 3 (5) TOSHIBA TEC AMERICA RETAIL INFORMATION SYSTEMS, INC., a California corporation
- 4
- 5 (6) NEC CORPORATION, a Japanese corporation,
- 6 (7) NEC USA, INC., a New York corporation,
- 7 (8) NEC SOLUTIONS (AMERICA), INC., a Delaware corporation,
- 8 (9) NEC UNIFIED SOLUTIONS, INC., a Nevada corporation,

9 Defendants.

10 AND RELATED COUNTERCLAIMS.

11
12
13
14 Plaintiff and Counterclaim-defendant Intergraph Hardware Technologies Company
15 (“Intergraph”), as and for its Amended Complaint herein, states as follows:

16 **INTRODUCTION**

17 This is an action against Toshiba Corporation and its U.S. subsidiaries, Toshiba America
 18 Information Systems Inc., Toshiba America Medical Systems, Inc., Toshiba America Business
 19 Solutions, Inc., and Toshiba TEC America Retail Information Systems, Inc. (collectively
 20 “Toshiba”), and NEC Corporation and its U.S. subsidiaries, NEC USA, Inc., NEC Unified
 21 Solutions, Inc., and NEC Solutions (America), Inc. (collectively “NEC”), for patent infringement
 22 under the Patent Laws of the United States, 35 U.S.C. §§ 101 et seq., for infringing U.S. Patent
 23 No. 4,899,275 entitled “Cache-MMU System” (“the ‘275 Patent”), attached hereto as Exhibit
 24 “A”; U.S. Patent No. 4,933,835 entitled “Apparatus for Maintaining Consistency of a Cache
 25 Memory with a Primary Memory” (“the ‘835 Patent”), attached hereto as Exhibit “B”; and U.S.
 26 Patent No. 5,091,846 entitled “Cache Providing Caching/Non-Caching Write-Through and
 27 Copyback Modes for Virtual Addresses and Including Bus Snooping to Maintain Coherency”
 28 (“the ‘846 Patent”), attached hereto as Exhibit “C,” (collectively, the “Patents-in-Suit”) owned by

1 Intergraph that disclose and claim computer systems having improved cache memory
2 management systems, and related methods.

3 **PARTIES AND JURISDICTION**

4 1. Plaintiff Intergraph is a Nevada corporation with its principal place of business in
5 Las Vegas, Nevada. Intergraph is a wholly-owned subsidiary of Intergraph Corporation
6 (“Intergraph Corp.”), a Delaware corporation with its principal place of business in Huntsville,
7 Alabama. Intergraph is the assignee of the Patents-in-Suit and holds the right to recover damages
8 for past, present and future infringement of the Patents-in-Suit and the right to seek injunctive
9 relief for infringement of the Patents-in-Suit.

10 2. Upon information and belief, Defendant Toshiba Corporation is a Japanese
11 corporation with its principal place of business in Tokyo, Japan, but doing business in this judicial
12 district and around the world. Toshiba Corporation is engaged in the business of making, using,
13 selling and/or offering to sell computer systems. Upon information and belief, Toshiba
14 Corporation offers to sell and sells infringing devices through its subsidiary, Toshiba America
15 Information Systems, Inc., from retail computer stores in the Northern District of California,
16 including Office Depot, 15166 Los Gatos Blvd., Los Gatos, California. Upon information and
17 belief, Toshiba Corporation also offers to sell and sells infringing devices within the District
18 through its interactive Internet site. Upon information and belief, Toshiba Corporation has been
19 and is engaged in the manufacture, importation, use, offer for sale, and/or sale of infringing
20 products in the United States with the knowledge and intention that such products would be sold
21 throughout the United States, including this judicial district.

22 3. Upon information and belief, Toshiba America Information Systems, Inc. is a
23 California corporation with its principal place of business at 9740 Irvine Blvd., Irvine, California,
24 but doing business in this judicial district and around the United States. Toshiba America
25 Information Systems, Inc. is engaged in the business of making, using, selling and/or offering to
26 sell computer systems. Upon information and belief, Toshiba America Information Systems, Inc.
27 offers for sale and sells infringing devices from retail computer stores in the Northern District of
28 California, including Office Depot, 15166 Los Gatos Blvd., Los Gatos, California. Upon

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1 information and belief, Toshiba America Information Systems, Inc. also offers for sale and sells
2 infringing devices within the District through its interactive Internet site. Upon information and
3 belief, Toshiba America Information Systems, Inc. has been and is engaged in the manufacture,
4 importation, use, offer for sale, and/or sale of infringing products in the United States with the
5 knowledge and intention that such products would be sold throughout the United States, including
6 this judicial district.

7 4. Upon information and belief, Toshiba America Medical Systems, Inc. is a
8 California corporation with its principal place of business at 2441 Michelle Drive, Tustin,
9 California, but doing business in this judicial district and around the United States. Toshiba
10 America Medical Systems, Inc. is engaging in the business of mailing, using, selling and/or
11 offering to sell Magnetic Resonance Imaging (“MRI”) machines. Upon information and belief,
12 Toshiba America Medical Systems, Inc. offers for sale and sells infringing devices in the
13 Northern District of California. Upon information and belief, Toshiba America Medical Systems,
14 Inc. has been and is engaged in the manufacture, importation, use, offer for sale, and/or sale of
15 infringing products in the United States with the knowledge and intention that such products
16 would be sold throughout the United States, including this judicial district.

17 5. Upon information and belief, Toshiba America Business Solutions, Inc. is a
18 California corporation with its principal place of business at 2 Musick, Irvine, California but
19 doing business in this judicial district and around the United States. Toshiba America Business
20 Solutions, Inc. is engaged in the business of making, using, selling and/or offering to sell copiers.
21 Upon information and belief, Toshiba America Business Solutions, Inc. offers for sale and sells
22 infringing devices in the Northern District of California. Upon information and belief, Toshiba
23 America Business Solutions, Inc. has been and is engaged in the manufacture, importation, use,
24 offer for sale, and/or sale of infringing products in the United States with the knowledge and
25 intention that such products would be sold throughout the United States, including this judicial
26 district.

27 6. Upon information and belief, Toshiba TEC America Retail Information Systems,
28 Inc. is a California corporation with its principal place of business at 4401 A Bankers Circle,

1 Atlanta, Georgia, but doing business in this judicial district and around the United States.
2 Toshiba TEC America Retail Information Systems, Inc. is engaged in the business of making,
3 using, selling and/or offering to sell Point of Sale systems. Upon information and belief, Toshiba
4 TEC America Retail Information Systems, Inc. offers for sale and sells infringing devices in the
5 Northern District of California. Upon information and belief, Toshiba TEC America Retail
6 Information Systems, Inc. has been and is engaged in the manufacture, importation, use, offer for
7 sale, and/or sale of infringing products in the United States with the knowledge and intention that
8 such products would be sold throughout the United States, including this judicial district.

9 7. Upon information and belief, Defendant NEC Corporation is a Japanese
10 corporation with its principal place of business in Tokyo, Japan, but doing business in this judicial
11 district and around the world. NEC Corporation is engaged in the business of making, using,
12 selling and/or offering to sell computer systems. Upon information and belief, NEC Corporation
13 offers for sale and sells infringing devices through its subsidiary, NEC Unified Solutions, Inc.,
14 from its regional sales office located within this District at 2890 Scott Blvd., Santa Clara,
15 California 95050. Upon information and belief, NEC Corporation has been and is engaged in the
16 manufacture, importation, offer for sale, and/or sale of infringing products in the United States
17 with the knowledge and intention that such products would be sold throughout the United States,
18 including this judicial district.

19 8. Upon information and belief, Defendant NEC USA, Inc. is a Delaware corporation
20 with its principal place of business in Melville, New York, but doing business in this judicial
21 district and around the United States. NEC USA, Inc., through its wholly-owned subsidiaries, is
22 engaged in the business of making, using, selling and/or offering to sell computer systems. Upon
23 information and belief, NEC USA, Inc. offers for sale and sells infringing devices through its
24 wholly-owned subsidiary, NEC Unified Solutions, Inc., from NEC Unified Solutions, Inc.
25 regional sales office located within this District at 2890 Scott Blvd., Santa Clara, California
26 95050. Upon information and belief, NEC USA, Inc. has been and is engaged in the
27 manufacture, importation, use, offer for sale, and/or sale of infringing products in the United
28

1 States with the knowledge and intention that such products would be sold throughout the United
2 States, including this judicial district.

3 9. Upon information and belief, Defendant NEC Unified Solutions, Inc. is a Nevada
4 corporation with its principal place of business in Irvine, Texas, but doing business in this judicial
5 district and around the United States. NEC Unified Solutions, Inc. is engaged in the business of
6 making, using, selling and/or offering to sell computer systems. Upon information and belief,
7 NEC Unified Solutions, Inc. offers for sale or sells infringing devices from its regional sales
8 office located within this district at 2890 Scott Blvd., Santa Clara, California 95050. Upon
9 information and belief, NEC Unified Solutions, Inc. has been and is engaged in the manufacture,
10 importation, use, offer for sale, and/or sale of infringing products in the United States with the
11 knowledge and intention that such products would be sold throughout the United States, including
12 this judicial district.

13 10. Upon information and belief, Defendant NEC Solutions (America), Inc. is a
14 Delaware corporation with its principal place of business in Rancho Cordova, California, but
15 doing business in this judicial district and around the United States. NEC Solutions (America),
16 Inc. is engaged in the business of making, using, selling and/or offering to sell computer systems.
17 Upon information and belief, NEC Solutions (America), Inc. used, offered, or sold infringing
18 devices in this district. Upon information and belief, NEC Solutions (America), Inc. also offered
19 for sale or sold infringing devices through online retailers such as Amazon, CDW and PC
20 Connection. Upon information and belief, NEC Solutions (America), Inc. has been and is
21 engaged in the manufacture, importation, use, offer for sale, and/or sale of infringing products in
22 the United States with the knowledge and intention that such products would be sold throughout
23 the United States, including this judicial district.

24 11. This Court has subject matter jurisdiction pursuant to Title 28 U.S.C. § 1331 and
25 § 1338(a). Venue is proper in this District under the provisions of Title 28 U.S.C. § 1391(c) and
26 § 1400(b), in that the Defendants have done business in this District, have committed acts of
27 infringement in this District, and continue to commit acts of infringement in this District, entitling
28 the plaintiff to monetary and injunctive relief.

1 of Defense programs. In 1974, Intergraph Corp. developed a general-purpose interactive graphic
2 design system that allowed the user to visualize design intent through graphical interaction with
3 the computer.

4 18. During the 1970s and 1980s, Intergraph Corp. was on the cutting edge of computer
5 technology. Intergraph Corp. was a pioneer and industry technology leader in both computer
6 graphics terminal design and in stand-alone computer graphics workstation design.

7 19. Based upon Intergraph Corp.'s reputation as a technology leader, Fairchild and
8 Intergraph Corp. entered into a joint development agreement in September 1985 under which
9 Intergraph Corp. became the primary "Alpha" test site for Fairchild's APD. Intergraph Corp.
10 assisted Fairchild in the validation and manufacture of the first Clipper microprocessor, and
11 incorporated the Clipper into stand-alone graphics workstations. As an "Alpha" test site,
12 Intergraph Corp. agreed to make workstation prototypes available to Mr. Sachs's team at
13 Fairchild to validate and test the APD-Fairchild microprocessor technology. Fairchild and
14 Intergraph Corp. ultimately began testing a small number of prototypes of the Clipper
15 microprocessor, utilizing the technology disclosed by the patent applications.

16 **The Patented Technology**

17 20. The Patents-in-Suit represented a substantial improvement on the state of the art as
18 it then existed. The first Clipper microprocessor permitted Intergraph Corp. to introduce the
19 industry's first computer workstations to reach processing speeds of 5 million instructions per
20 second. A contemporary reviewer observed that "Intergraph [Corp.] seems to have just about
21 everyone beat."

22 21. Full-scale production of the Clipper microprocessor began in early 1987. In late
23 1987, Intergraph Corp. purchased APD from Fairchild, and Messrs. Sachs, Cho, and
24 Hollingsworth became full-time employees of Intergraph Corp. Intergraph Corp. assumed APD's
25 ongoing financial obligations and its commitments to suppliers, customers, and approximately
26 110 employees.

27 22. Intergraph Corp. also acquired all rights to all APD patent applications and
28 technology, and assumed responsibility for prosecuting those applications. Between February

1 1990 and February 1992, each of the Patents-in-Suit was duly and legally issued to Intergraph
2 Corp.

3 23. Intergraph Corp. spent more than \$150 million developing and refining the Clipper
4 technology and the products based thereon. Intergraph Corp. developed multiple generations of
5 Clipper microprocessors. Each generation marketed by Intergraph Corp. advanced the
6 integration, speed, and performance of the previous one. By the end of 1992, Intergraph Corp.
7 manufactured a variety of leading edge computer workstations and servers based on its patented
8 technology.

9 Intel Litigation

10 24. In late 1996, after discovering that many of its competitors' products incorporated
11 Intergraph Corp.'s patented technology, Intergraph Corp. began notifying competing computer
12 original equipment manufacturers ("OEMs") that certain of their products infringed two of the
13 Patents-in-Suit. In its notice letters, Intergraph Corp. offered to negotiate a license for the OEMs
14 to use the patented technology.

15 25. Many of the accused OEMs' products employed microprocessors or other
16 components manufactured and sold by Intel Corporation ("Intel"). Intel is the leading supplier of
17 microprocessors in the United States.

18 26. Upon information and belief, upon receiving Intergraph Corp.'s notification letters,
19 several of the OEMs sought indemnification from Intel. Upon information and belief, Intel
20 discussed Intergraph Corp.'s assertions and the Clipper technology with many of the OEMs.

21 27. Before Intergraph Corp.'s assertion of infringement against the OEMs, Intergraph
22 Corp. and Intel established a business relationship whereby Intergraph Corp. would assist Intel in
23 the definition, validation, and deployment of Intel's microprocessor products. In return, Intel
24 agreed to supply Intergraph Corp. with the resulting high-end microprocessors used in its
25 computer workstation and server products.

26 28. Beginning in the spring of 1997, Intel and Intergraph Corp. met to discuss
27 Intergraph Corp.'s assertion of its patents against Intel's customers, the OEM computer vendors.
28 At that time, Intel demanded that Intergraph Corp. grant Intel a worldwide royalty-free license to

1 Intergraph Corp's entire patent portfolio. Intel further demanded that such a license expressly
2 permit Intel's OEM customers to use Intergraph Corp's patented technology without further
3 compensation. Intergraph Corp. explained to Intel that the claims against the OEMs concerned
4 the OEMs' sale of computer systems that utilized microprocessors in combination with other
5 system components.

6 29. Intergraph Corp. sent various letters to the OEMs explaining that the '835 and
7 '846 patents cover computer systems, and do not simply read on Intel's microprocessors. For
8 example, in April 2001, Intergraph Corp. sent counsel for Packard Bell NEC, an NEC subsidiary,
9 a letter explaining that the patents read on "computer systems, not simply Intel Corporation's
10 processor level infringement."

11 30. When Intergraph Corp. refused to grant the license that was demanded, Intel
12 advised Intergraph Corp. that it was terminating the working relationship between Intel and
13 Intergraph Corp. Intel made it clear to Intergraph Corp. that their relationship could only be
14 reinstated if Intergraph Corp. gave Intel a royalty-free, worldwide license for Intel and its OEM
15 customers.

16 31. As a result of Intel's actions, on November 17, 1997, Intergraph Corp. filed suit
17 against Intel in the U.S. District Court for the Northern District of Alabama ("Alabama
18 litigation"), asserting a number of claims, including business tort claims and the infringement of
19 Intergraph Corp. patents (including infringement of the Patents-in-Suit and other patents).

20 32. After filing suit against Intel, Intergraph Corp. continued to offer to negotiate a
21 license with the OEMs for the '835 and '846 patents. In 1999, Intergraph Corp. explained to the
22 OEMs that its enforcement and licensing program would be temporarily suspended while
23 Intergraph Corp. pursued its litigation against Intel. Intergraph Corp. invited the OEMs to
24 monitor the progress of the Intel lawsuit via Intergraph Corp.'s website. In 2001, Intergraph
25 Corp. renewed its offer to the OEMs to negotiate a license to the Patents-in-Suit.

26 33. After prolonged litigation, and as the result of court-ordered mediation in a
27 separate patent infringement case, ("PIC Case"), Intel agreed to settle Intergraph Corp.'s Alabama
28 litigation in April 2002.

1 34. As a result of the mediation in the PIC Case, Intel, Intergraph, and Intergraph
2 Corp. executed a settlement agreement that expressly excluded any license regarding the OEMs'
3 sale of infringing computer systems. The PIC Case settlement gave Intel a license to sell "Intel
4 Computer Systems" under claims 37 and 38 of the '275 Patent and all claims of the '835 and '846
5 patents. The term "Intel Computer Systems" was defined to mean computer systems that contain
6 all elements of a claim of the '835 and '846 patents or claim 37 or 38 of the '275 patent. The
7 definition specifically excluded systems that contained less than all elements of such a claim.
8 The PIC Case Settlement did not authorize Intel to sell microprocessors in the United States under
9 those patents unless such microprocessors were part of an Intel Computer System. The PIC Case
10 settlement also specifically preserved Intergraph's right to seek payment for patent licenses from
11 the OEMs and the right to sue the OEMs under the Patents-in-Suit.

12 35. The PIC Case settlement agreement specifically provided that at Intergraph's
13 request, Intel must notify its OEM customers that: "...[The] settlement agreement by its terms
14 does not provide an immunity except for Intel products. . . . Therefore, when considering the use
15 of non-Intel products, please note that any resulting combinations may require a separate patent
16 license from Intergraph Corporation."

17 36. In December of 2002, Intergraph requested that Intel send such notification letters
18 to NEC, through its then-subsiary Packard Bell NEC, and to Toshiba Corp.

19 37. In April 2002, Intergraph Corp. announced the creation of Intergraph Hardware
20 Technologies Company (the plaintiff, "Intergraph"), an operating division with the charter to
21 manage Intergraph Corp.'s patents, copyrights, and trademarks, and to maximize the value of that
22 intellectual property. Intergraph was formed as a wholly-owned subsidiary of Intergraph Corp.
23 and charged with enforcement and licensing of, among other patents, the Patents-in-Suit.
24 Thereafter, Intergraph Corp. assigned to Intergraph all of the Clipper patents, including the
25 Patents-in-Suit. Intergraph holds the right to recover damages for past, present and future
26 infringement of the Patents-in-Suit and the right to seek injunctive relief for infringement of the
27 Patents-in-Suit.
28

OEM Licenses

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2 38. On January 30, 2003, Intergraph announced that it had entered into a patent cross-
3 license agreement with IBM which encompasses nearly all of IBM's patent portfolio and will
4 extend until January 1, 2013. IBM assigned several patents to Intergraph. IBM also tendered a
5 balancing payment of \$10 million.

6 39. In March of 2004, Intel, on behalf of itself and Dell, entered into a Settlement
7 Agreement between Intergraph and Intel and License to Dell ("Intel/Dell Agreement") and paid
8 Intergraph \$225 million. In addition to settling Intergraph's patent infringement litigation against
9 Dell, the Intel/Dell Agreement gave Intel's customers a covenant not to sue for any computer
10 system that contained all three of the following Intel products: (1) Intel-brand microprocessor, (2)
11 an Intel-brand chipset, and (3) an Intel-brand motherboard. The covenant expressly excluded
12 systems that do not contain all three Intel products.

13 40. In April of 2004, AMD entered into a Settlement Agreement with Intergraph. That
14 Settlement Agreement provided a license to AMD such that any computer utilizing an AMD
15 microprocessor is licensed under the Patents-in-Suit. To date, AMD has paid Intergraph \$15
16 million and will pay up to \$10 million more over the next two years depending on profits.

17 41. In May of 2004, Intergraph entered into a settlement agreement with Gateway.
18 The Gateway settlement agreement licensed Gateway's U.S. sales in exchange for a lump-sum
19 payment of \$10 million plus \$1.25 ongoing royalty for Gateway computer systems other than
20 those excluded under the Intel/Dell covenant or AMD license.

21 42. In January of 2005, Intergraph entered into a settlement agreement with Hewlett-
22 Packard Co ("HP"). Under the terms of that agreement, Intergraph received \$141 million in
23 addition to a cross-license to HP's patent portfolio for Intergraph's fields of use. The HP
24 settlement agreement resulted in dismissal of the litigation then-pending against HP, as well as
25 several lawsuits brought by HP in other forums.

26 43. In the spring of 2005, Intergraph began licensing discussions with Fujitsu
27 Corporation. Those discussions led to Fujitsu's payment of \$9.75 million for a license to the
28 Patents-in-Suit in late September of 2005.

1 51. On February 21, 1997, Intergraph Corp. sent a letter to Packard Bell NEC, at the
2 time NEC Corp.'s subsidiary selling computers in the U.S., notifying NEC that it infringed the
3 '835 and '846 patents. Additional letters followed on March 28, 1997, and April 22, 1997. In
4 July of 1997, Intergraph Corp. sent exemplar claim charts to Packard Bell NEC, and explained
5 that these patents were being applied to computers with components that performed bus-
6 mastering. In March of 1999, Intergraph Corp. sent a letter to Packard Bell NEC explaining the
7 status of the litigation against Intel, and announcing that Intergraph licensing campaign would be
8 temporarily delayed while Intergraph's resources were directed to the Intel litigation. Intergraph
9 Corp. sent another status letter in July of 1999, again confirming that Intergraph intended to
10 resume its licensing campaign at the conclusion of the Intel litigation. In 2001, Intergraph Corp.
11 sent a status letter explaining that the United States Court of Appeals for the Federal Circuit had
12 denied Intel's defense that it was licensed to practice the patents. In December of 2002,
13 Intergraph Corp. notified counsel for Packard Bell NEC that Intergraph Corp. had filed a lawsuit
14 against Dell, Hewlett-Packard, and Gateway. Intergraph Corp. also notified Packard Bell NEC's
15 counsel that it would receive a letter from Intel regarding the combination of Intel components,
16 and asked Packard Bell NEC to notify Intergraph Corp. if it did not receive that letter. On
17 October 15, 2005, Intergraph sent NEC USA a letter explaining that the litigation against Dell,
18 HP, and Gateway had been resolved. Intergraph suggested that the parties resume formal
19 licensing discussions.

20 52. Upon information and belief, Toshiba is one of the world's largest vendors of
21 portable computer systems. Upon information and belief, the majority of those computer systems
22 infringe one or more of the Patents-in-Suit. Upon information and belief, Toshiba's computer
23 system offerings include personal computers, servers, as well as Point-of-Sale (POS) systems,
24 telephony systems, and other specialized computer systems that utilize Intel-brand IA-32
25 microprocessors. Examples of infringing computer systems manufactured or sold by the various
26 Toshiba defendants include, but are not limited to: Satellite M35X-S3112, Satellite M50-
27 S418TD, Toshiba Satellite A105-S2031, ST-7000 Modular POS Terminal, Stratagy ES8 Voice
28 Processing Servers, e-STUDIO KS-1000 Document Management & Storage Server, NVR8-250

1 Network Video Recorder, EFI Fiery Controller, Vantage 1.5T Ultra-Short MRI, Equium 7350M,
2 Equium 8000S, Portege 4010, Qosmio G15-AV501, Satellite 1135-S1554, Tecra A2, Tecra A7-
3 ST5112, and Magnia 5100.

4 53. On April 23, 1999, Intergraph Corp. sent a letter to Toshiba Corp. notifying
5 Toshiba that it infringed the '835 and '846 patents. Intergraph Corp. notified Toshiba of the then-
6 pending litigation with Intel and invited Toshiba to keep track of such litigation via Intergraph
7 Corp.'s website. Intergraph explained that Intergraph Corp.'s enforcement and licensing program
8 would be temporarily delayed while it diverted resources to the Intel litigation. On December 16,
9 2002, Intergraph sent a letter to Toshiba Corp. notifying it that Intergraph had initiated litigation
10 against Dell, Hewlett-Packard, and Gateway. The letter notified Toshiba that it infringed, among
11 other patents, the Patents-in-Suit. The letter informed Toshiba that it would soon receive
12 correspondence from Intel explaining that the combination of components necessitated a separate
13 license. Finally, Intergraph proposed that Toshiba and Intergraph discuss licensing the Patents-
14 in-Suit. On October 15, 2005, Intergraph sent Toshiba America Information Systems a letter
15 explaining that the litigation against Dell, HP, and Gateway had been resolved. Intergraph
16 suggested that the parties resume formal licensing discussions.

17 **COUNT I PATENT INFRINGEMENT (U.S. PATENT NO 4,899,275)**

18 **(Against All Defendants)**

19 54. Intergraph restates and realleges the allegations set forth in the paragraphs 1
20 through 53 and incorporates them by reference.

21 55. On February 6, 1990, United States Patent No. 4,899,275 entitled "Cache-MMU
22 System" was duly and legally issued to Intergraph Corp. and thereafter validly assigned to its
23 subsidiary Intergraph.

24 56. Defendants have directly, indirectly, contributorily, and/or by inducement
25 infringed claims 37 and 38 of the '275 Patent in violation of 35 U.S.C. §§ 271(a), (b), (c) and/or
26 (f), literally and/or by the doctrine of equivalents, in this District and elsewhere in the United
27 States and will continue to do so unless enjoined by this Court.

28

1 57. Upon information and belief, Defendants have knowledge of the ‘275 Patent as a
2 result of Intergraph Corp.’s notifying Defendants of their infringement of that patent.

3 58. Defendants have willfully infringed the ‘275 Patent in violation of 35 U.S.C.
4 §§ 271(a), (b), (c) and/or (f).

5 59. Defendants’ infringement of the ‘275 Patent has caused injury to Intergraph, and
6 will continue to do so unless enjoined by this Court, thereby entitling Intergraph to all remedies
7 available under the Patent Laws of the United States, including 35 U.S.C. §§ 281-285.

8 **COUNT II PATENT INFRINGEMENT (U.S. PATENT NO 4,933,835)**

9 **(Against All Defendants)**

10 60. Intergraph restates and realleges the allegations set forth in paragraphs 1 through
11 59 and incorporates them by reference.

12 61. On June 12, 1990, United States Patent No. 4,933,835 entitled “Apparatus for
13 Maintaining Consistency of a Cache Memory with a Primary Memory” was duly and legally
14 issued to Intergraph Corp. and thereafter validly assigned to its subsidiary Intergraph.

15 62. Defendants have directly, indirectly, contributorily, and/or by inducement
16 infringed claims of the ‘835 Patent in violation of 35 U.S.C. §§ 271(a), (b), (c) and/or (f), literally
17 and/or by the doctrine of equivalents, in this District and elsewhere in the United States and will
18 continue to do so unless enjoined by this Court.

19 63. Upon information and belief, Defendants have knowledge of the ‘835 Patent as a
20 result of Intergraph Corp.’s notifying Defendants of their infringement of that patent.

21 64. Defendants have willfully infringed the ‘835 Patent in violation of 35 U.S.C. §§
22 271(a), (b), (c) and/or (f).

23 65. Defendants’ infringement of the ‘835 Patent has caused injury to Intergraph, and
24 will continue to do so unless enjoined by this Court, thereby entitling Intergraph to all remedies
25 available under the Patent Laws of the United States, including 35 U.S.C. §§ 281-285.

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ATTORNEYS AT LAW
MINNEAPOLIS

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COUNT III PATENT INFRINGEMENT (U.S. PATENT NO 5,091,846)

(Against All Defendants)

66. Intergraph restates and realleges the allegations set forth in the paragraphs 1 through 65 and incorporates them by reference.

67. On February 25, 1992, United States Patent No. 5,091,846 entitled “Cache Providing Caching/Non-Caching Write-Through and Copyback Modes for Virtual Addresses and Including Bus Snooping to Maintain Coherency” was duly and legally issued to Intergraph Corp. and thereafter validly assigned to its subsidiary Intergraph.

68. Defendants have directly, indirectly, contributorily, and/or by inducement infringed claims of the ‘846 Patent in violation of 35 U.S.C. §§ 271(a), (b), (c) and/or (f), literally and/or by the doctrine of equivalents, in this District and elsewhere in the United States and will continue to do so unless enjoined by this Court.

69. Upon information and belief, Defendants have knowledge of the ‘846 Patent as a result of Intergraph Corp.’s notifying Defendants of their infringement of that patent.

70. Defendants have willfully infringed the ‘846 Patent in violation of 35 U.S.C. §§ 271(a), (b), (c) and/or (f).

71. Defendants’ infringement of the ‘846 Patent has caused injury to Intergraph, and will continue to do so unless enjoined by this Court, thereby entitling Intergraph to all remedies available under the Patent Laws of the United States, including 35 U.S.C. §§ 281-285.

WHEREFORE Intergraph prays for judgment as follows:

1. A finding that Defendants have directly, indirectly, contributorily and/or by inducement, literally and/or by the doctrine of equivalents, infringed United States Patent No. 4,899,275 in violation of 35 U.S.C. §§ 271(a), (b), (c) and/or (f) ;
2. A finding that Defendants have directly, indirectly, contributorily and/or by inducement, literally and/or by the doctrine of equivalents, infringed United States Patent No. 4,933,835 in violation of 35 U.S.C. §§ 271(a), (b), (c) and/or (f) ;
3. A finding that Defendants have directly, indirectly, contributorily and/or by inducement, literally and/or by the doctrine of equivalents, infringed United States

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DEMAND FOR JURY TRIAL

Plaintiff Intergraph hereby demands a jury trial as to all issues so triable in this action.

DATED: December 20, 2006

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

By /s/ William H. Manning
William H. Manning
Attorneys for Plaintiff And Counterclaim Defendant
Intergraph Hardware Technologies Company

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