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U.S. DISTRICT COURT  
DISTRICT OF WYOMING

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING**

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AFTG-TG, L.L.C., a Wyoming limited liability company, et al.,

Plaintiffs,

v.

FEATURE INTEGRATION TECHNOLOGY, INC., a Taiwan corporation, SILICON INTEGRATED SYSTEMS CORPORATION, a Taiwan corporation, and, SILICON INTEGRATED SYSTEMS CORPORATION (USA), a California corporation.  
Defendants.

**SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT AND TRADE SECRET THEFT**

Civil No. 10-CV-230-F

Judge: Freudenthal

Plaintiffs AFTG-TG, L.L.C. ("AFTG") and Phillip M. Adams & Associates, L.L.C. ("PMAA" which shall be collectively referred to with AFTG as "Adams") bring this action for the infringement of multiple U.S. patents, and misappropriation of various trade secrets associated with that patented technology. Adams' claims for patent infringement arise under the patent laws of the United States, Title 35 of the United

States Code. Adams claims for misappropriation of trade secrets arise under Wyo. Stat. Ann. §§ 40-24-101, *et seq.* This Court has exclusive jurisdiction over the subject matter of this Complaint under 28 U.S.C. § 1338(a). Venue is proper in this District under 28 U.S.C. §§ 1391(c)-(d) and 1400(b).

### **PLAINTIFFS**

1. PMAA is a Utah limited liability company with its principal place of business in Wyoming. Adams owns all right, title, and interest in and has standing to sue for infringement of the United States patents:

- 5,983,002 titled “Defective Floppy Diskette Controller Detection Apparatus and Method” (“the ‘002 patent”);

- 6,401,222 titled “Defective Floppy Diskette Controller Detection Apparatus and Method” (“the ‘222 patent”);

- 6,687,858 titled “Software-Hardware Welding System” (“the ‘858 patent”);

- 7,069,475 titled “Software-Hardware Welding System” (“the ‘475 patent”); and,

- 7409,601 titled “Read-Write Function Separation Apparatus and Method” (“the ‘601 patent”);

(collectively “PMAA patents-in-suit”).

2. AFTG is a Wyoming limited liability company with its principal place of business in Wyoming. AFTG owns all right, title, and interest in and has standing to sue for infringement of the United States patents:

- 6,842,802 titled “Programmatic Time-Gap Defect Correction Apparatus and Method” (“the ‘802 patent”);

- 7,366,804 titled “Programmatic Time-Gap Defect Correction Apparatus and Method” (“the ‘804 patent”);

- 7,653,766 titled “Time-Gap Defect Detection Apparatus and Method” (“the ‘766 patent”); and,

- 7,941,576 titled “Time-Gap Defect Detection Apparatus and Method” (“the ‘576 patent”).

(collectively the “AFTG patents-in-suit”). The PMAA patents-in-suit and the AFTG patents-in-suit are collectively referred to as the “Patents-in-Suit”.

3. Dr. Phillip M. Adams heads plaintiffs PMAA and AFTG, and resides in Wyoming. He has a Ph.D. in applied computer science, a D.Sc. in engineering and over 30 years of experience in the computer industry. Dr. Adams has served on the faculty of major universities and holds numerous patents. In the late 1980s, Dr. Adams was on the IBM task force that characterized a defect in the NEC 765A floppy diskette controller (FDC). This defect caused the random destruction and corruption of data without any notification to the user that data had been destroyed or corrupted.

4. The random destruction or corruption of data in computers is a serious, and potentially cataclysmic, problem. Computers are used throughout society and the data integrity of computers is the lifeblood of the information age. The public relies upon the integrity of data in computers systems to support all aspects of society, including the multitude of financial transactions, the accurate and effective diagnoses and treatment of illness and the proper design and construction of automobiles, aircraft, bridges, dams, office buildings and various other structures and devices.

5. The scope and seriousness of the undetected data corruption problem characterized by Dr. Adams was illustrated by the US\$2.1 billion *Toshiba* class-action settlement in the Eastern District of Texas. In addition to the *Toshiba* class-action settlement, the United States Government settled False Claims Act claims against Toshiba for US\$33.5 million. The State of California settled California State False Claims Act claims against Toshiba for US\$33 million. In addition, several billion-dollar class-action lawsuits are presently pending against different computer companies in various federal and state courts because of such defects built into various computers.

6. In the 20 plus years since Dr. Adams characterized the NEC765A defect, Dr. Adams has discovered related data corruption defects and has devoted thousands of hours to developing detectors and solutions, alerting various federal and state governments, computer companies and private purchasers to such defects and assisting computer manufacturers to acknowledge and remedy these defects. In addition, Dr. Adams has developed several patented computer technologies that address such defects. Dr. Adams developed patented computer technology (both hardware and software) that detects which computers exhibit specific data corruption defects, and patented solutions (both hardware and software) that resolve those specific data corruption defects.

7. Hewlett Packard ("HP"), one of the world's leaders in personal computers, obtained a license from Adams for its patented technology, and then made an HP specific solution available to its customers to resolve data corruption issues on HP machines. Compaq, before its merger with HP, also obtained a license to Adams' patented technology.

8. In May of 2005, in compliance with the terms of the HP and Compaq license agreements, Adams filed suit against numerous companies in the computer industry for the infringement of Adams' patents and theft of Adams' trade secrets, the "Winbond Litigation".

9. The Winbond Litigation came to a successful resolution in late 2010 when a Utah jury found that Winbond Electronics Corporation, ASUSTeK Computer Company, ASUS Computer International, Microstar International Corp, Ltd., and MSI Computer Corp. had infringed certain claims of Adams '002 patent.

10. Previously, Adams had been involved and occupied in litigation with Gateway Computer Company from 2002 until 2006 when Gateway settled on the first day of trial. Adams has been successfully involved in litigation since at least 2002 against computer companies such as Gateway, Sony, Dell, IBM, Lenovo, Quanta, Fujitsu, and Dell.

11. Through the course of the Winbond Litigation it was discovered that Winbond's and ITE's infringing chips, chip technology, chip development programs, and testing programs had been distributed throughout the computer industry and had been knowingly incorporated into the Defendants products.

12. Indeed, upon information and belief the Defendant Silicon Integrated System ("SiS") 950 I/O chip is actually an ITE8705. SiS even had the ITE logo printed on the reverse side of the chip to identify its true source. Additionally, the SiS 6801 I/O chip is actually an ITE IT8661 chip.

13. SiS was intimately involved in the development of infringing chips, and infringing test programs. The infringements included having SiS engineers working on

FDC problems for the IT8705 chip, collaborating with other chip manufacturers, including ITE and Winbond, in developing and using infringing test programs, working with Winbond to resolve the FDC issue on the W83697HF chips due to the Toshiba floppy issue, and working in cooperation with motherboard manufacturers, system houses (including Compaq), and other chip manufacturers to resolve FDC overrun error problems, as a result of the Toshiba floppy issue.

14. Defendant Fintek was similarly intimately involved with system houses, motherboard manufacturers, and other chip makers in infringing Adams technology to resolve data corruption issues in the wake of the *Toshiba* case. This included attending a meeting in Shanghai with HP, MSI, and Winbond, to resolve FDC data corruption issues, using ASUS test programs to resolve data corruption issues on Fintek's F8000 chip, ASUS providing Fintek with FDC test programs, Fintek developing in conjunction with others, software patch flows, and being intimately involved in the redesign of the Winbond W83627HF version C to a version G, thus integrating infringing Adams technology to resolve data corruption issues. Fintek was also involved in the infringing changes made to MSI products in what is known as the "Brookings Project" with both MSI and Gateway.

15. On October 5, 2010 a Utah jury unanimously determined that Winbond, ASUS, and MSI had infringed all asserted claims of Adams' '002 patent, through not only the production, sale, and importation of infringing products, by integrating infringing technology into their products, but also by the development and use of infringing test programs and methods.

16. Upon information and belief, SiS and Fintek were also involved in the design, development, and use of infringing test programs and methods, and further have integrated Adams technology into their products, either through their own design, or through the relabeling of Winbond and ITE chips for sale under their own labels.

17. SiS and Fintek were intimately involved in developing infringing test programs and methods, and infringing products, and knowingly and intentionally infringed the Patents-in-suit, and are liable for patent infringement under, at a minimum, 35 U.S.C. § 271 (a), (b), (c), and (d), including importation by their US subsidiaries.

18. SiS and Fintek were intimately involved in developing infringing test programs and methods, and infringing products, and knowingly and intentionally misappropriated Adams trade secrets, and are liable for this misappropriation under, at a minimum, Wyo. Stat. Ann. §§ 40-24-101, *et seq.*

### **DEFENDANTS**

19. Upon information and belief, Feature Integration Technology Inc. (“Fintek”) is a company organized under the laws of Taiwan, with a place of business at 3F-7, No.36, Tai Yuen St., Chupei City, Hsinchu, Taiwan, R.O.C.; and all U.S. subsidiaries, if any.

20. Upon information and belief, Silicon Integrated Systems Corporation is a company organized under the laws of Taiwan, with a place of business at No.180, Sec.2, Gongdaowu Rd., Hsin-Chu, Taiwan 300, R.O.C.

21. Upon information and belief, Silicon Integrated Systems Corporation (USA) is a California corporation with a place of business at 838 N. Hillview Dr.,

Milpitas, California 95035, USA (Silicon Integrated Systems Corporation and Silicon Integrated Systems Corporation (USA) are collectively referred to as “SIS”).

**COUNT I**

**ACTS OF PATENT INFRINGEMENT**

21. Plaintiffs reallege and incorporate by reference Paragraphs 1-21 above as Paragraph 22 of Count I.

22. Defendants have infringed various claims of each of the patents-in-suit in violation of 35 U.S.C. § 271 through, among other activities, the manufacture, use, importation, sale, and offer for sale, of computer chips, motherboards, computers, and other computer components, as well as the use of infringing test programs, patterns, and methods, and the methods of manufacture, including but not limited to testing of Defendants’ products as part of the manufacturing process. In addition to their direct infringement, Defendants have also knowingly and intentionally induced others to infringe under 35 U.S.C. § 271(b) (such as its suppliers, collaborators, customers, and end users, including in this judicial district and throughout the United States) by intentionally aiding, assisting, and encouraging their infringement, and Defendants have knowingly contributed to the infringement of others under 35 U.S.C. § 271(c) (such as its suppliers, collaborators, customers, and end users, including in this judicial district and throughout the United States) by supplying their technical know-how and infringing computer chips and other products. The infringement that has occurred is at least of the following claims of the following patents:



<b>Patent Number</b>	<b>Claims</b>
5,983,002	1-6, 8-15
6,401,222	1-7,9-16,18-20
6,687,858	1, 3-4
7,069,475	6, 14-17, 21, 23
7,409,601	1-3, 6-7, 9-12, 14-15
6,842,802	1-29
7,366,804	1-30
7,653,766	1-19
7,941,576	1-27

### **NOTICE AND WILLFULNESS**

23. On information and belief, all Defendants have had actual and/or constructive notice of their infringement of the patents-in-suit, including actual pre-complaint notice.

24. On information and belief, all Defendants' infringement has been willful and deliberate as to the patents-in-suit and has occurred with the knowledge that they integrated infringing technology into their products, test patterns, and manufacturing process.

25. Defendants' infringement has injured and will continued to injure Adams, unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, importation, offer for sale, and sale of Defendants' products and/or services that contain infringing technology, including but not limited to any I/O controller chip.

**COUNT II**

**MISAPPROPRIATION OF TRADE SECRETS**

26. Plaintiffs reallege and incorporate by reference Paragraphs 1-25 above as Paragraphs 26 of Count II.

27. Fintek was intimately involved in the infringing changes made to Winbond I/O chips, developed infringing test patterns and test pattern flows, and received test programs from both ASUS and Winbond.

28. SiS was intimately involved in the infringing changes made to both Winbond chips and ITE chips, imports, offers for sale, and sells infringing chips under its own brand, received infringing test programs from ITE and Winbond, and worked together with ITE and Winbond, and others, on resolving I/O data corruption defects.

29. In a prior lawsuit in the United States District of Utah, Adams v. Gateway Inc., No. 2:02-CV-01065, Adams discovered that Gateway had spoliated evidence and improperly attempted to hide damaging documents by asserting that the damaging documents were privileged. Thereafter, the court ruled that Gateway's assertions of privilege were improper and sanctioned Gateway for improperly asserting privilege in an effort to hide and cover up damaging documents. Adams v. Gateway, 2003 WL 23787856 (D.Utah 2003), *affirmed and ordering production of documents on September 14, 2004*, 2004 WL 2061884 (D.Utah 2004). In addition, in subsequent litigation pending in the United States District Court for the District of Utah, Phillip M. Adams & Associates, L.L.C. v. Lenovo, 1:05-CV-00064, the Court ordered other defendants to produce documents relating to these defendants' testing and modifications of defective I/O controllers. In addition, during this subsequent litigation, the Court found that ASUS

had spoliated evidence relating to ASUS' misappropriation of Adams' technology and sanctioned ASUS for such spoliation.

30. The documents produced in these lawsuits indicate that defendants and other computer and chip manufacturers in Taiwan and Asia had obtained unauthorized and stolen copies of Adams' test programs, design & test technologies and trade secret technologies, and that these defendants were using stolen copies of Adams' technologies in their manufacture, assembly, and testing of computer products.

31. It was uncovered during previous cases many technology companies' product changes were in reaction to test results from the unauthorized use of Adams' test programs, technologies and trade secrets. The timing of Defendants' product changes coincides with the changes made by the misappropriating defendants in the other actions. On information and belief, Defendants' made use of infringing test programs and methods, and made changes to their product lines based upon the unauthorized use of Adams' stolen test programs, technologies and trade secrets.

32. Defendants' test programs, modification methodologies and test technologies contain trade secrets of Adams' proprietary and confidential software programs and trade secrets, which Dr. Adams invented. These test programs and related technologies allow users to determine, and fix, data corruption defects in computers, and Defendants actually used these test programs and related technologies in the testing and manufacturing of FDC chips, I/O controllers, motherboards and computer systems that contain them.

33. On information and belief, Defendants' test programs and methods contain trade secrets of Adams, including, among other things, specific methods to allow the detection of undetected data corruption to be performed in I/O controllers, including but not limited to Floppy Diskette Controllers, on any byte during data transfer. Adams maintained Adams' test programs and associated trade secrets in confidence, and when Adams licensed the programs and related technologies, Adams required in writing that its licensees maintain this confidentiality. Adams maintained the confidentiality of its trade secrets associated with each patent application and/or program protected by these patents until such time as the patents were published. Once the patent applications were published some, but not all of the trade secrets, became protected under the newly issued patents. However, various trade secrets contained in Adams' various programs remained protected as trade secrets, undisclosed to the public. Adams' test programs and trade secrets were carefully guarded and remained extremely valuable until Defendants and other Taiwanese technology companies' indiscriminant use and misappropriation; for example; Compaq Computers licensed the Adams' test programs and technology for \$31.5 million.

34. Adams' test programs are clearly and conspicuously labeled as the property of Adams and protected under U.S. patent and copyright laws. This would have been understood by any person using the programs. Defendants knew or had reason to know that the test programs and related trade secrets protected. Additionally, Defendants knew or had reason to know that the test programs and related trade secrets were acquired by improper means.

35. On information and belief, Defendants are representative of defendants in previous Adams litigations – SiS and Fintek are both chip manufacturers, similar to Winbond and/or ITE. Indeed, SiS and Fintek both worked intimately with Winbond and ITE in resolving data corruption defects on their chip designs. All three levels of the supply chain (chip manufacturer -> motherboard manufacturer -> ODM -> system house) were required by system houses (IBM, HP, Gateway, etc) to resolve the same (or similar) problems that their functional counterparts did during the 2000-2002 timeframe.

36. An invention that is ultimately disclosed in a patent application is secret until the patent application is published, as long as the inventor safeguards the invention as a trade secret during the time between conception and publication (disclosure). Therefore, a patent tree consisting of an initial patent, a root or parent patent with continuation patents or progeny patents, consists of a series of well defined trade secrets, i.e., the inventions represented by the claims of each of the progeny patents from the filing date of the initial patent (root patent) until the publication of the specific progeny patent.

37. Based on information regarding the Taiwanese computer technology industry, past performance, past discovery from other Taiwanese companies, past court rulings involving the theft of Adams' technology, past correspondence and belief; Adams asserts misappropriation of trade secrets related to three separate patent trees: (1) '002 tree, (2) '858 tree, and (3) '802 tree. Specifically, the inventive steps and/or disclosures in terms of patent claims embodied in continuation patents from these three patent trees. Regarding tree (1), the claims of the '222 patent constitute trade secrets asserted in this matter. Regarding tree (2), the claims of the '475 and the '601 patents constitute trade

secrets asserted in this matter. Regarding tree (3), the claims of the '804 patent, the '766 patent, and the '576 patent all constitute trade secrets asserted in this matter.

38. A more detailed explanation of the relative trade secrets is attached under sealed as Exhibit A.

39. Defendants' conduct violated the Wyoming Uniform Trade Secret Act, Wyo. Stat. Ann. §§ 40-24-101, *et. seq.*

### **PRAYER FOR RELIEF**

WHEREFORE, Adams respectfully requests this Court enter judgment against Defendants and against their subsidiaries, affiliates, agents, servants, employees, and all persons in active concert or participation with them granting the following relief:

A) An award of damages adequate to compensate Adams for the patent infringement by Defendants that has occurred, together with prejudgment interest from the date of infringement of each respective patent-in-suit began together with costs, said damages to be no less than a reasonable royalty;

B) An award to Adams of all damages so determined for willful infringement, including an increase of the compensatory damages by up to three times, in accordance with 35 U.S.C. § 284;

C) A finding that this case is exceptional and an award to Adams of all remedies available under 35 U.S.C. § 285, including the costs of this action, and reasonable attorney's fees;

D) A permanent injunction prohibiting further infringement, inducement, and contributory infringement of the patents-in-suit;

E) For its trade secret misappropriation claim against Defendants, an award of all appropriate unjust enrichment damages, including disgorgement of all profits denied from the misappropriation, as well as punitive damages; and,

F) Any other and further relief as this Court or a jury may deem proper and/or just.

Dated: October 19, 2011

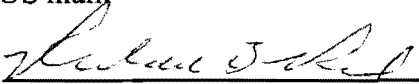
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a) on October 19, 2011. Any other counsel of record will be served by email or US mail,

  
Of Dray, Dykman, Reed & Healey P.C.