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Attorneys for Plaintiffs and Counterdefendants,
MICROPROCESSOR ENHANCEMENT
CORPORATION and MICHAEL H. BRANIGIN

2009 JAN 27 AM 11:53
CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MICROPROCESSOR ENHANCEMENT
CORPORATION and MICHAEL H.
BRANIGIN

Plaintiffs,

vs.

MINDSPEED TECHNOLOGIES, INC.

Defendant.

Case No.

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

(Ex)

1 For their complaint against Mindspeed Technologies, Inc. ("Mindspeed" or
2 "Defendant"), Plaintiffs Microprocessor Enhancement Corporation and Michael H.
3 Branigin (collectively "Plaintiffs") allege as follows:

4 **THE PARTIES**

5 1. Plaintiff Microprocessor Enhancement Corporation ("MEC") is a
6 corporation duly organized and existing under the laws of the State of Delaware, with
7 its principal place of business at 500 Newport Center Drive, Newport Beach,
8 California 92660. MEC holds an exclusive license to U.S. Patent No. 5,471,593 ("the
9 '593 patent" or "Patent-in-Suit"). MEC's exclusive license includes the rights to
10 sublicense the '593 patent and to enforce the '593 patent against alleged infringers.

11 2. Plaintiff Michael H. Branigin is an individual residing at 151 Ivy Hills
12 Rd., Southbury, Connecticut 06488. Mr. Branigin is the inventor, owner, and licensor
13 of the '593 Patent.

14 3. Defendant Mindspeed is a Delaware Corporation with its principal place
15 of business located at 4000 MacArthur Blvd MS 10-006, Newport Beach, CA 92660-
16 2558.

17 **NATURE OF THE ACTION**

18 4. In this civil action, Plaintiffs seek damages and injunctive relief against
19 Defendants for acts of patent infringement in violation of the Patent Act of the United
20 States, 35 U.S.C. §§ 1 et seq.

21 **JURISDICTION AND VENUE**

22 5. This Court has subject matter jurisdiction of such federal question claims
23 pursuant to 28 U.S.C. §§ 1331 and 1338(a).

24 6. Venue is proper under 28 U.S.C. §§ 1391(c) and 1400(b), in that the acts
25 and transactions complained of herein were conceived, carried out, made effective, or
26 had effect within the State of California and within this district, among other places.
27 On information and belief, Defendant resides in this judicial district by virtue of its
28 business activities in this district. Defendant is licensed to do business in California

1 by the California Secretary of State. Defendant maintains a registered agent for
 2 service of process within this judicial district – namely, CT Corporation System, 818
 3 West Seventh Street Los Angeles, California 90017.

4 7. On information and belief, this Court has personal jurisdiction over
 5 Defendant.

6 **BACKGROUND**

7 8. On November 28, 1995, the United States Patent & Trademark Office
 8 duly and legally issued United States Letters Patent No. 5,471,593 (“the ‘593
 9 Patent”), entitled “COMPUTER PROCESSOR WITH AN EFFICIENT MEANS OF
 10 EXECUTING MANY INSTRUCTIONS SIMULTANEOUSLY.” A true and correct
 11 copy of the ‘593 Patent is attached as Exhibit 1 and incorporated herein by reference.

12 9. The ‘593 Patent claims a pipelined processor as well as a method for
 13 executing instructions in a pipelined processor.

14 10. Defendant Mindspeed makes, uses, sells, and/or offers for sale in the
 15 United States certain IP processing devices, including Comcerto 100 Broadband
 16 Gateway Processors and Comcerto 300 Series Access Voice Processors (“Comcerto
 17 Processors”). Defendant Mindspeed is not licensed to practice the ‘593 Patent.

18 **FIRST CLAIM FOR RELIEF**

19 **INFRINGEMENT OF U.S. PATENT NO. 5,471,593**

20 11. Plaintiffs incorporate herein by reference the allegations set forth in
 21 paragraphs 1-10 of this Complaint as though fully set forth herein.

22 12. Plaintiff MEC is the owner by exclusive license of the entire right, title,
 23 and interest, including the right to enforce, in and to the ‘593 Patent.

24 13. Plaintiff Branigin is the inventor and exclusive licensor of the ‘593
 25 Patent.

26 14. Mindspeed has directly infringed and continues to directly infringe the
 27 ‘593 Patent by making, using, selling, or offering for sale in or importing into the
 28 United States Comcerto Processors, which embody or otherwise practice one or more

1 of the claims of the '593 Patent.

2 15. On information and belief, Mindspeed has indirectly infringed and
3 continues to indirectly infringe the '593 Patent by actively inducing direct
4 infringement by other persons who operate and/or use the Comcerto Processors, or
5 otherwise practice one or more of the claims of the '593 Patent with respect to the
6 Comcerto Processors, when Mindspeed had knowledge of the '593 Patent and knew
7 or should have known that its actions would induce direct infringement by others and
8 intended that its actions would induce direct infringement by others.

9 16. On information and belief, Mindspeed has indirectly infringed and
10 continues to indirectly infringe the '593 Patent by contributory infringement by
11 providing non-staple articles of commerce to others for use in an infringing system or
12 method with respect to the Comcerto Processors with knowledge of the '593 Patent
13 and knowledge that these non-staple articles of commerce are used as a material part
14 of the claimed inventions of the '593 Patent.

15 17. On information and belief, Mindspeed will continue to infringe the '593
16 Patent as alleged in this Complaint unless enjoined by this Court.

17 18. As a direct and proximate result of Mindspeed's infringement of the '593
18 Patent, Plaintiffs have been and continue to be damaged in an amount yet to be
19 determined.

20 19. Unless a preliminary and permanent injunction are issued enjoining
21 Mindspeed and its respective officers, agents, servants, and employees, and all
22 persons acting in concert with Mindspeed, from infringing the '593 Patent, Plaintiffs
23 will be greatly and irreparably harmed.

24 20. By reason of the above acts, Plaintiffs are entitled to injunctive relief
25 enjoining and restraining Mindspeed, and its respective officers, agents, servants, and
26 employees, and all persons acting in concert with Mindspeed, from further
27 infringement of the '593 Patent with respect to the Comcerto Processors.
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

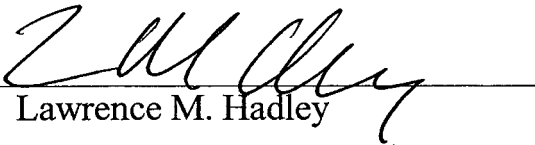
1. For a judicial determination and declaration that Defendant directly infringes United States Letters Patent No. 5,471,593 by making, using, offering to sell and/or selling the Comcerto Processors;
2. For a judicial determination and declaration that Defendant induces direct infringement of United States Letters Patent No. 5,471,593 with respect to the Comcerto Processors;
3. For a judicial determination and declaration that Defendant commits contributory infringement of United States Letters Patent No. 5,471,593 with respect to the Comcerto Processors;
4. For damages resulting from Defendant's past and present infringement of United States Letters Patent No. 5,471,593;
5. For injunctive relief preliminarily and permanently enjoining against further infringement of United States Letters Patent No. 5,471,593 by Defendant, its respective officers, directors, shareholders, agents, servants, employees, and all other entities and individuals acting in concert with the enjoined entities or on their behalf;
6. For a declaration that this is an exceptional case under 35 U.S.C. § 285 and for an award of attorneys' fees and costs in this action;
7. For an assessment of prejudgment interest; and

1 8. For such other and further relief as the Court may deem just and proper
2 under the circumstances.

3
4 DATED: January 26, 2009

HENNIGAN BENNETT & DORMAN LLP

5
6
7 By


Lawrence M. Hadley

8 Attorneys for Plaintiffs,
9 MICROPROCESSOR ENHANCEMENT
10 CORPORATION and MICHAEL H.
11 BRANIGIN
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HENNIGAN, BENNETT & DORMAN LLP
LAWYERS
LOS ANGELES, CALIFORNIA

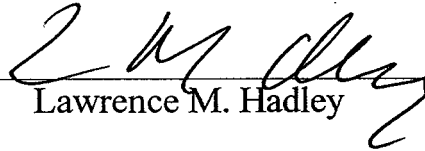
DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial pursuant to Rule 38 of the Federal Rules of Civil Procedure as to all issues in this lawsuit.

DATED: January 26, 2009

HENNIGAN BENNETT & DORMAN LLP

By


Lawrence M. Hadley

Attorneys for Plaintiffs and
Counterdefendants, MICROPROCESSOR
ENHANCEMENT CORPORATION and
MICHAEL H. BRANIGIN

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Stephen V. Wilson and the assigned discovery Magistrate Judge is Charles Eick.

The case number on all documents filed with the Court should read as follows:

CV09- 603 SVW (Ex)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Lawrence M. Hadley SBN 157728
 HENNIGAN, BENNETT & DORMAN LLP
 865 S. Figueroa Street, Suite 2900
 Los Angeles, CA 90017
 Telephone: 213-694-1200
 Attorneys for Plaintiffs and Counterdefendants
 Microprocessor Enhancement Corporation and
 Michael H. Branigan

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

MICROPROCESSOR ENHANCEMENT
 CORPORATION and MICHAEL H. BRANIGAN
 PLAINTIFF(S)

v.

MINDSPEED TECHNOLOGIES, INC.
 DEFENDANT(S).

CASE NUMBER

CV 09-00603

(Ex)

SUMMONS

TO:DEFENDANT(S): Mindspeed Technologies, Inc.

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Lawrence M. Hadley, whose address is 865 S. Figueroa Street, Suite 2900 Los Angeles, CA 90017. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JAN 27 2009

By: _____



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

I (a) PLAINTIFFS (Check box if you are representing yourself ☐)

MICROPROCESSOR ENHANCEMENT CORPORATION and
MICHAEL H. BRANIGIN,

DEFENDANTS

MINDSPEED TECHNOLOGIES, INC.

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Lawrence M. Hadley (SBN 157728)
Hennigan, Bennett & Dorman LLP
865 S. Figueroa Street, Suite 2900
Los Angeles, CA 90017
213-694-1200

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No

☒ MONEY DEMANDED IN COMPLAINT: \$

VI. CAUSE OF ACTION (Cite the U. S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

35 U.S.C §§1 et. seq. - patent infringement

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS PERSONAL INJURY	TORTS PERSONAL PROPERTY	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 22 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 61 HIA(1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW 405(g) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number:

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES

DISTRICT COURT, CENTRAL DISTRICT

OF CALIFORNIA

CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☐ No ☒ Yes

If yes, list case number(s): SACV05-0323 AHS (RNBx); SACV05-5667 AHS (RNBx); SACV08-1039 AHS (RNBx); SACV08-1123 AHS(RNBx)

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☒ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☒ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
County of Orange	Connecticut

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
County of Orange	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.

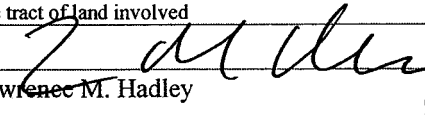
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
County of Orange	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):



Lawrence M. Hadley

Date January 26, 2008

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))