

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

FILED  
2003 OCT 30 PM 4:30  
[Signature]

STAKTEK GROUP, L.P.

Plaintiff,

v.

SIMPLETECH, INC.

Defendant.

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Civil Action No. A 03CA 731SS

JURY DEMANDED

**FIRST AMENDED COMPLAINT**

Plaintiff Staktek Group, L.P. ("Staktek Group") hereby complains of  
Defendant SimpleTech, Inc. ("SimpleTech"), and alleges as follows:

**THE PARTIES**

1. Plaintiff Staktek Group is a Texas limited partnership that maintains its principal place of business at 8900 Shoal Creek Blvd, Suite 125, in Austin, Texas 78758.

2. Defendant SimpleTech is a corporation organized and existing under the laws of the state of California, having a principal place of business at 3001 Daimler, Santa Ana, California 92705.

### JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 United States Code. The jurisdiction of this Court is proper under 35 U.S.C. § 271 and 28 U.S.C. §§ 1331, 1332, and 1338. Venue is properly laid in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b).

4. Upon information and belief, defendant SimpleTech has sufficient contacts with this judicial district and the State of Texas to subject it to the jurisdiction of this Court. Upon information and belief, SimpleTech's activities in this district and in the State of Texas are sufficient to constitute doing business for jurisdictional purposes.

### FACTUAL BACKGROUND

5. Plaintiff Staktek Group repeats and re-alleges paragraphs 1-4.

6. Staktek Group is the leading designer, developer, manufacturer, and distributor of stacked memory modules in the United States. The memory modules developed and distributed by Staktek Group are called "stacks." For purposes of this lawsuit, "stacking" is the vertical placement of two or more packaged integrated circuits, one above the other, into a single unit called a "stack." The stacking technologies owned by Staktek Group were developed over a period of years. Staktek Group owns over 50 United States patents. The products and

technologies of Staktek Group provide advantages where large amounts of memory must be placed in a limited area. Consequently, the technologies and products of Staktek Group are found in servers, computers, and work stations throughout the world.

7. SimpleTech sells a stack which, on information and belief, is sometimes called the IC Tower Stack (the "SimpleTech stack").

8. Exhibit P-1 consists of two pages, page one being a photograph of a stack that has had part of its side-board cut-away and page two being a photograph of a stack cut to present a cross-sectional view of its construction.

9. Exhibit P-1 depicts features found in certain SimpleTech stacks.

10. At all times relevant to its claims for recovery of damages in this action, Plaintiff Staktek Group has complied with the marking requirements of 35 U.S.C. § 287.

#### FIRST CLAIM FOR RELIEF

(Infringement of United States Patent No. 6,025,642)

11. Plaintiff Staktek Group repeats and re-alleges paragraphs 1-10.

12. On February 15, 2000, United States Patent No. 6,025,642 (the “‘642 Patent”) was duly and legally issued to Carmen D. Burns, named as inventor, for inventions in stacking. (A true and correct copy of the ‘642 Patent is attached hereto as Exhibit P-2). Staktek Group is the legal owner by assignment of the ‘642 Patent.

13. On information and belief, the defendant has been and is infringing the ‘642 Patent by using the invention of the ‘642 Patent within the United States, and by importing into the United States and making, offering to sell, selling, and using within the United States products covered by the ‘642 Patent, all without authority.

14. On information and belief, the defendant has been and is actively inducing infringement of the ‘642 Patent by others, including inducing others to use within the United States products covered by the ‘642 Patent.

15. On information and belief, the defendant has been and is actively contributing to the infringement of the ‘642 Patent by importing into the United States and/or by making, selling, and/or offering to sell products with no substantial use other than to practice the invention of one or more claims of the ‘642 Patent.

16. On information and belief, and subject to further discovery, SimpleTech's infringement of the '642 Patent has been and is willful.

SECOND CLAIM FOR RELIEF

(Infringement of United States Patent No. 5,420,751)

17. Plaintiff Staktek Group repeats and re-alleges paragraphs 1-16.

18. On May 30, 1995, United States Patent No. 5,420,751 (the "'751 Patent") was duly and legally issued to Carmen D. Burns, named as inventor, for inventions in stacking. (A true and correct copy of the '751 Patent is attached hereto as Exhibit P-3). Staktek Group is the legal owner by assignment of the '751 Patent.

19. On information and belief, the defendant has been and is infringing the '751 Patent by using the invention of the '751 Patent within the United States, and by importing into the United States and making, offering to sell, selling, and using within the United States products covered by the '751 Patent, all without authority.

20. On information and belief, the defendant has been and is actively inducing infringement of the '751 Patent by others, including inducing others to use within the United States products covered by the '751 Patent.

21. On information and belief, the defendant has been and is actively contributing to the infringement of the '751 Patent by importing into the United States and/or by making, selling, and/or offering to sell products with no substantial use other than to practice the invention of one or more claims of the '751 Patent.

22. On information and belief, and subject to further discovery, SimpleTech's infringement of the '751 Patent has been and is willful.

### THIRD CLAIM FOR RELIEF

(Infringement of United States Patent No. 6,168,970)

23. Plaintiff Staktek Group repeats and re-alleges paragraphs 1-22.

24. On January 2, 2001, United States Patent No. 6,168,970 (the "'970 Patent") was duly and legally issued to Carmen D. Burns, named as inventor, for inventions in stacking. (A true and correct copy of the '970 Patent is attached hereto as Exhibit P-4). Staktek Group is the legal owner by assignment of the '970 Patent.

25. On information and belief, the defendant has been and is infringing the '970 Patent by using the invention of the '970 Patent within the United States,

and by importing into the United States and offering to sell, selling, and using within the United States products made by the invention of the '970 Patent, all without authority.

26. On information and belief, the defendant has been and is actively inducing infringement of the '970 Patent by others, including inducing others to use within the United States products made by the invention of the '970 Patent.

27. On information and belief, the defendant has been and is actively contributing to the infringement of the '970 Patent by importing into the United States, and/or by selling and/or offering to sell, materials or apparatuses for use in practicing the invention of the '970 Patent with no substantial use other than to practice the invention of one or more claims of the '970 Patent.

28. On information and belief, and subject to further discovery, SimpleTech's infringement of the '970 Patent has been and is willful.

#### JURY DEMAND

Plaintiff Staktek Group hereby demands a trial by jury of all issues that may be so tried.

#### PRAYER FOR RELIEF

Staktek Group respectfully requests the following relief:

A. That the Court enter a permanent injunction against the defendant's infringement of the '642 Patent.

B. That the Court enter a permanent injunction against the defendant's active inducement of the infringement of the '642 Patent.

C. That the Court enter a permanent injunction against the defendant's contributory infringement of the '642 Patent.

D. That the Court enter a permanent injunction against the defendant's infringement of the '970 Patent.

E. That the Court enter a permanent injunction against the defendant's active inducement of the infringement of the '970 Patent.

F. That the Court enter a permanent injunction against the defendant's contributory infringement of the '970 Patent.

G. That the Court enter a permanent injunction against the defendant's infringement of the '751 Patent.

H. That the Court enter a permanent injunction against the defendant's active inducement of the infringement of the '751 Patent.

I. That the Court enter a permanent injunction against the defendant's contributory infringement of the '751 Patent.

J. That the Court award Staktek Group the damages to which it is entitled.

- K. That the Court find this case exceptional under 35 U.S.C. § 285;
- L. That the Court treble the damages for willful infringement;
- M. That the Court award interest on the damages;
- N. That the Court award Staktek Group its attorneys' fees incurred in this action;
- O. That the Court award Staktek Group its costs of this action; and
- P. That the Court award such other relief as it deems just and proper.

Respectfully submitted,



J. SCOTT DENKO  
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ATTORNEYS FOR  
STAKTEK GROUP, L.P.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above First Amended Complaint was served by facsimile and Federal Express on this the 30<sup>th</sup> day of October 2003, on the following:

Joseph F. Jennings  
Knobbe, Martens, Olson & Bear LLP  
2040 Main Street  
Fourteenth Floor  
Irvine, CA 92614



J. SCOTT DENKO

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**NOTICE OF DOCUMENT(S) NOT IMAGED**

Civil Case No.      A-03-CA-731 SS

STAKTEK GROUP

VS.

SIMPLETECH, INC.

Attachments to  
Document #:

5

Description:      First Amended Complaint

Filed By:      Plaintiff

File Date:      10/30/03

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DEPUTY CLERK