

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

MAURICE MITCHELL INNOVATIONS, L.P.	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO.
	§	2:04CV-450 LED
INTEL CORPORATION	§	
	§	
Defendant.	§	A JURY IS DEMANDED
	§	

PLAINTIFF'S SECOND AMENDED COMPLAINT
FOR PATENT INFRINGEMENT

Plaintiff, MAURICE MITCHELL INNOVATIONS, L.P., brings this action for patent infringement against Defendant, INTEL CORPORATION, and alleges as follows:

I. PARTIES

1. Plaintiff Maurice Mitchell Innovations, L.P. ("Mitchell") is a Texas Limited Partnership whose registered agent is Capitol Services, Inc., 800 Brazos, Suite 1100, Austin, Texas 78701.

2. Upon information and belief, Defendant Intel Corporation (hereinafter referred to as "Intel") is a business entity organized and existing under the laws of the State of Delaware, is headquartered at 2200 Mission College Blvd., Santa Clara, California 95052, and is actively doing business in this judicial district, in this state and elsewhere. Defendant

Intel's registered agent for service of process is CT Corporation System, 350 N. St. Paul Street, Dallas, Texas 75201, U.S.A. Defendant has been served.

II. JURISDICTION AND VENUE

3. This court has jurisdiction over this action under 28 U.S.C. § 1338(a) because this case arises under the patent laws of the United States of America and more particularly, under 35 U.S.C. § 271 *et seq.*

4. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400.

III. PATENT INFRINGEMENT

5. On October 17, 1989, United States Letters Patent No. 4,875,154 (hereinafter "the '154 Patent") entitled "Microcomputer With Disconnected, Open, Independent, Bimemory Architecture, Allowing Large Interacting, Interconnected Multi-Microcomputer Parallel Systems Accommodating Multiple Levels of Programmer Defined Hierarchy," was duly and lawfully issued to its inventor, Maurice E. Mitchell. A true and accurate copy of the '154 Patent is attached hereto and incorporated herein as Plaintiff's Exhibit A. By assignment from Maurice E. Mitchell, Plaintiff Mitchell has acquired all right, title, and interest in and to the '154 Patent, including the right to bring this action.

6. Beginning prior to 1991, Maurice E. Mitchell had direct contact with Defendant Intel concerning the '154 Patent. More recently, on or about April 24, 2000, Maurice Mitchell's attorneys communicated with Defendant Intel's President, who has received actual notice of the '154 Patent.

7. Upon information and belief Defendant Intel is extensively engaged in the business of manufacturing, marketing, and selling electronic products, which include but

not by way of limitation, its PENTIUM, PENTIUM II, PENTIUM III, PENTIUM IV (including the Xeon MP), ITANIUM and ITANIUM 2 microprocessors and related chipsets, including but not by way of limitation the Intel 430 TX Chipset, the Intel 440 GX Chipset, the Intel 450 NX Chipset, the Intel E8500 Chipset, the Intel 460 GX Chipset, and the Intel E8870 Chipset. In addition, upon information and belief, Defendant Intel manufactures, markets, and sells chipsets, including but not limited to the following: 955X, 945P, 915G, 915GV, 915P, 915GM, 915GMS, 910GML, 910GL, 925X, 855GM, 855PM, 855GME, 875P, 860, E7505, E7525, E7520, E7320, 460GX, E8870, 815P, 430HX, 450NX, 440BX, 440GX, 440EX, 440LX, 440ZX, and 440ZX-66 (hereinafter collectively referred to as "Intel's Chipsets").

8. For more than three years, Maurice E. Mitchell has made repeated requests from Defendant Intel for information that would assist Plaintiff Mitchell in confirming that the microprocessor systems of Defendant Intel are believed within the scope of the '154 Patent. Defendant Intel steadfastly refused to provide the necessary documents for Plaintiff Mitchell to confirm its belief that Defendant Intel's products infringe the '154 Patent. Plaintiff Mitchell believes that Defendant Intel's determined refusal to provide such information is a confession that such is not exculpatory.

9. Upon information and belief, Plaintiff Mitchell is not presently aware of any methods of interconnecting central processing units other than the convention of the '154 Patent that would enable Defendant Intel to provide the results that it obtains with its products.

10. Upon further information and belief, Plaintiff Mitchell is not presently aware of any analytical technique that can be used to definitely establish that the microprocessor systems manufactured, used and sold by Defendant Intel did not use the invention of the '154 Patent. In the face of Defendant Intel's refusal to provide such information, Plaintiff Mitchell resorts to the judicial process and the aid of discovery to obtain such information as is required to confirm Plaintiff Mitchell's belief, and to present to this Court evidence that Defendant Intel infringes Claim 1 of the '154 Patent, and that Defendant Intel has been knowingly doing so for well over a decade.

11. Upon information and belief, Defendant Intel has infringed and still is infringing the '154 Patent by making, using, offering for sale, and selling in the United States its microprocessors that embody the invention of the '154 Patent and other products including them, including but not limited to Defendant Intel's PENTIUM, PENTIUM II, PENTIUM III, PENTIUM IV (including the Xeon MP), ITANIUM and ITANIUM 2 microprocessors and related chipsets, including but not by way of limitation the Intel 430 TX Chipset, the Intel 440 GX Chipset, the Intel 450 NX Chipset, the Intel E8500 Chipset, the Intel 460 GX Chipset, and the Intel E8870 Chipset. Further, upon information and belief, Defendant Intel has infringed and is still infringing the '154 Patent by making, using, offering for sale, and selling in the United States Intel's Chipsets, which have no substantial non-infringing use, whether sold alone or in combination with a microprocessor. Plaintiff Mitchell reserves the right to amend its Complaint to add additional products as discovery may indicate.

12. Upon information and belief, Defendant Intel has also induced and contributed to the infringement of the '154 Patent by causing others to make, use, offer for sale, and sell in the United States imbedded microprocessors that embody the invention of the '154 Patent and other products incorporating them, including but not limited to all products that use PENTIUM, PENTIUM II, PENTIUM III, PENTIUM IV (including the Xeon MP), ITANIUM and ITANIUM 2 microprocessors and related chipsets, including but not by way of limitation the Intel 430 TX Chipset, the Intel 440 GX Chipset, the Intel 450 NX Chipset, the Intel E8500 Chipset, the Intel 460 GX Chipset, and the Intel E8870 Chipset. Further, upon information and belief, Defendant Intel has also induced and contributed to the infringement of the '154 Patent by causing others to make, use, offer for sale, and sell in the United States Intel's Chipsets, which have no substantial non-infringing use, whether sold alone or in combination with a microprocessor.

13. Defendant Intel has engaged in the above-mentioned activities within this District and elsewhere within the United States, without the consent of Plaintiff Mitchell.

14. Upon information and belief, Defendant Intel has performed the complained of acts willfully and wantonly and with the knowing callous disregard of Plaintiff Mitchell's patent rights.

15. By reason of Defendant Intel's acts alleged herein, Plaintiff Mitchell has and will suffer damage, and Defendant Intel has and will enjoy profits to which they are otherwise not entitled, for which Plaintiff Mitchell is entitled to relief at law.

16. By reason of Defendant Intel's acts alleged herein, Defendant Intel will continue to do the acts complained of herein, all to Plaintiff Mitchell's damage.

IV. JURY DEMAND

17. Pursuant to Federal Rules of Civil Procedure, Rule 38(b), Plaintiff Mitchell hereby demands a trial by jury on all issues triable of right by a jury.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff Mitchell prays for relief against Defendant Intel as follows:

(a) Letters Patent No. 4,875,154 be adjudged to have been infringed by Defendant Intel;

(b) That Defendant Intel be adjudged to have induced and contributed to the infringement of Letters Patent No. 4,875,154;

(c) Plaintiff Mitchell be awarded damages, no less than a reasonable royalty, adequate to compensate Plaintiff Mitchell for the infringement, together with interest, and that such amounts be trebled because of the willful and deliberate character of the infringement, as provided by law;

(d) Plaintiff Mitchell be awarded attorneys fees as provided by 35 U.S.C. § 285;

(e) Defendant Intel be required to pay Plaintiff Mitchell punitive damages as may be permitted by law or in the discretion of this Court;

(f) Plaintiff Mitchell have and recover its taxable costs and disbursements herein; and,

(g) Plaintiff Mitchell be granted such other and further relief as the Court may deem just and equitable.

Respectfully submitted,

By: /s/ Richard L. Schwartz (by permission Otis Carroll)

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CERTIFICATE OF SERVICE

I certify that a true copy of this document was served on the 14th day of July, 2006, via the U.S. District Court's Electronic Case Filing System to the following attorney(s) of record:

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