

APR 22 2002

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CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
DEPUTY CLERK

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
BY ~~VIA~~ TECHNOLOGIES DEPUTY CLERK

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

V.

V.

Counterclaim Defendants.

CIVIL ACTION NO. A-01-CA-602-SS

NOW COME, VIA Technologies, Inc. (“VIA”) and Centaur Technology, Inc. (“Centaur”), Plaintiffs herein, and allege for their Second Amended Complaint against Defendant Intel Corporation (“Intel”) as follows:

1. Plaintiff VIA Technologies, Inc. is a Taiwan corporation with a principal place of business at 8F, 533 Chung-Cheng Road, Hsin-Tien, Taipei, Taiwan.
2. Plaintiff Centaur Technology is a California corporation with a principal place of business at 9111 Jollyville Road, Suite 206, Austin, Texas 78759. Centaur is a wholly-owned subsidiary of VIA.

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3. Defendant Intel Corporation is a Delaware corporation and has its principal place of business at 2200 Mission College Boulevard, Santa Clara, California 95052. Intel also has an office at 1501 South Mopac Expressway, Austin, Texas 78746. Intel may be served through its registered agent for service, CT Corporation Systems, 350 North St. Paul Street, Dallas, Texas 75201.

4. Unless otherwise specified, the acts complained of herein were committed by, on behalf of, and/or for the benefit of Intel.

NATURE OF THE ACTION

5. This is an action for patent infringement.

6. This Complaint alleges that Intel has infringed, contributed to infringement of, and/or actively induced others to infringe VIA's and Centaur's United States Patent No. 6,253,311 B1 ("the '311 patent"), entitled "Instruction Set for Bi-Directional Conversion and Transfer of Integer and Floating Point Data," and United States Patent No. 6,161,188 ("the '188 patent"), entitled "Microprocessor Having Fuse Control and Selection of Clock Multiplier."

JURISDICTION AND VENUE

7. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. § 271 (patent infringement). This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 (federal question subject matter jurisdiction) and 1338(a) (jurisdiction for actions relating to United States patents).

8. This Court has personal jurisdiction over Intel because Intel conducts business in the state of Texas, and because Intel has infringed, contributed to the infringement of, and/or actively induced others to infringe VIA's and Centaur's patent in this district as alleged in this Complaint.

Moreover, Intel continues to infringe, contribute to the infringement of, and/or actively induce others to infringe VIA's and Centaur's patent in this district.

9. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and/or 1400(b), in that: a substantial part of the events giving rise to VIA's and Centaur's claims occurred in the Western District of Texas; and Intel is subject to personal jurisdiction in the Western District of Texas and has an office in Austin, Texas.

BACKGROUND FACTS

10. VIA and Centaur are in the business of designing and selling semiconductor products. VIA's and Centaur's products are used in personal computers throughout the world.

11. Intel is in the business of designing and selling semiconductor products, including microprocessors. Intel sells microprocessors to personal computer Original Equipment Manufacturers ("OEMs") and others throughout the United States and in numerous other countries.

12. Four families of microprocessors which Intel has designed and is selling are the "Pentium II", "Celeron", "Pentium III" and "Pentium 4" families of microprocessors.

CAUSE OF ACTION FOR PATENT INFRINGEMENT

13. VIA and Centaur restate and incorporate the allegations contained in Paragraphs 1 through 12 above.

COUNT I - INFRINGEMENT OF U.S. PATENT NO. 6,253,311 B1

14. On June 26, 2001, United States Patent No. 6,253,311 B1 ("the '311 patent"), entitled "Instruction Set for Bi-Directional Conversion and Transfer of Integer and Floating Point Data" was duly and legally issued. The '311 patent was invented by Timothy A. Elliott and G. Glenn

Henry, both of Austin, Texas. A true and correct copy of the '311 patent is attached hereto as Exhibit A.

15. The '311 patent relates to the field of microprocessors. Specifically, the '311 patent concerns a method and apparatus for bi-directional format conversion and transfer of data between "integer" and "floating point" registers in a microprocessor. "Integer" and "floating point" refer to different formats in which numerical data may be stored in a microprocessor.

16. One or more members of Intel's "Pentium 4" family of microprocessors infringe the '311 patent either directly, contributorily, and/or by inducement, in violation of 35 U.S.C. § 271.

17. VIA and Centaur are co-owners of the '311 patents.

18. Intel, with actual knowledge of (1) the existence of U.S. Patent Application No. 980481, (2) the subject matter and scope of that application, (3) the issuance of that application as the '311 patent, and (4) VIA's and Centaur's filing of suit for infringement of the '311 patent, nevertheless continued its infringement thereof without lawful justification and accordingly, has willfully infringed the '311 patent.

19. Unless enjoined by this Court, Intel will continue to infringe the '311 patent, and VIA and Centaur will suffer damages and irreparable harm.

20. VIA and Centaur are entitled to recover from Intel the damages sustained by VIA and Centaur as a result of Intel's wrongful acts in an amount subject to proof at trial.

COUNT II - INFRINGEMENT OF U.S. PATENT NO. 6,161,188

21. On December 12, 2000, United States Patent No. 6,161,188 ("the '188 patent"), entitled "Microprocessor Having Fuse Control and Selection of Clock Multiplier" was duly and legally

issued. The '188 patent was invented by Darius D. Gaskins and G. Glenn Henry, both of Austin, Texas. A true and correct copy of the '188 patent is attached hereto as Exhibit B.

22. One or more members of Intel's "Pentium II", "Celeron", "Pentium III" and "Pentium 4" families of microprocessors infringe the '188 patent either directly, contributorily, and/or by inducement, in violation of 35 U.S.C. § 271.

23. VIA and Centaur are co-owners of the '188 patent.

24. Intel, with actual knowledge of (1) the existence of U.S. Patent Application No. 193303, (2) the subject matter and scope of that application, (3) the issuance of that application as the '188 patent, and (4) VIA's and Centaur's filing of suit for infringement of the '188 patent, nevertheless continued its infringement thereof without lawful justification and accordingly, has willfully infringed the '188 patent.

25. Unless enjoined by this Court, Intel will continue to infringe the '188 patent, and VIA and Centaur will suffer damages and irreparable harm.

26. VIA and Centaur are entitled to recover from Intel the damages sustained by VIA and Centaur as a result of Intel's wrongful acts in an amount subject to proof at trial.

PRAYER

WHEREFORE, VIA and Centaur request that the Court enter judgment in their favor and against Intel as follows:

1. Granting preliminary and permanent injunctions enjoining Intel, its officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them, from further infringing, contributing to and/or inducing the infringement of the '311 and '188 patents;

2. Awarding compensatory damages to VIA and Centaur according to proof at trial; and
3. Such other relief as the Court deems proper.

JURY DEMAND

Plaintiffs VIA and Centaur demand a trial by jury.

DATED: April 22, 2002

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFFS
VIA TECHNOLOGIES, INC. and
CENTAUR TECHNOLOGY, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the above and foregoing has been delivered via telecopy and certified mail, return receipt requested to the following counsel of record on this the 22nd day of April, 2002.

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Lin Hughes

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

NOTICE OF DOCUMENT(S) NOT IMAGED

Civil Case No. A-01-CA-602 SS

VIA TECHNOLOGIES, et al

VS.

INTEL CORPORATION

Attachments to

Document #: 88

Description: Plaintiffs' Second Amended Complaint

Filed By: Plaintiffs

File Date: 4/26/02

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