

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

Tessera, Inc.,

Plaintiff,

v.

Civil Action No. 2:07-cv-534

Jury

A-DATA Technology Co., Ltd., A-DATA
Technology (U.S.A.) Co., Ltd., Acer Inc., Acer
America Corp., Centon Electronics, Inc., Elpida
Memory, Inc., Elpida Memory (USA) Inc.,
International Products Sourcing Group, Inc.,
Kingston Technology Co., Inc., Nanya
Technology Corp., Nanya Technology Corp.
U.S.A., Peripheral Devices & Products
Systems, Inc. d/b/a Patriot Memory, Powerchip
Semiconductor Corp., ProMOS Technologies,
Inc., Ramaxel Technology Ltd., SMART
Modular Technologies, Inc., TwinMOS
Technologies Inc., TwinMOS Technologies
USA Inc.,

Defendants.

**TESSERA'S COMPLAINT FOR PATENT INFRINGEMENT
AND JURY DEMAND**

Plaintiff, Tessera, Inc. ("Tessera"), for its complaint against Defendants A-DATA Technology Co., Ltd. and A-DATA Technology (U.S.A.) Co., Ltd. (collectively, "A-DATA"), Acer Inc. and Acer America Corp. (collectively, "Acer"), Centon Electronics, Inc. ("Centon"), Elpida Memory, Inc. and Elpida Memory (USA) Inc. (collectively, "Elpida"), International Products Sourcing Group, Inc. ("IPSG"), Kingston Technology Co., Inc. ("Kingston"), Nanya Technology Corp. and Nanya Technology Corp. U.S.A. (collectively, "Nanya"), Peripheral Devices & Products Systems, Inc. d/b/a Patriot Memory ("Patriot"), Powerchip Semiconductor Corp. ("Powerchip"), ProMOS Technologies, Inc. ("ProMOS"), Ramaxel Technology Ltd. ("Ramaxel"), SMART Modular Technologies, Inc. ("SMART"), and TwinMOS Technologies Inc. and TwinMOS

Technologies USA Inc. (collectively, “TwinMOS”) (collectively, “Defendants”), states and alleges as follows:

INTRODUCTION

1. Tessera is a global leader in the development of semiconductor packaging technology. Semiconductor packages serve as the electrical interface between semiconductor chips and the systems in which they operate. They also protect the delicate chips from damage, contamination, and stress resulting from repeated heating and cooling. Tessera’s technology allows companies around the world to meet the growing demand for smaller, faster, and more reliable electronic products, including cutting-edge medical devices and critical military defense components. The United States Patent and Trademark Office has awarded Tessera several hundred patents that reflect its innovation and protect the company’s investment in the technology it has developed.

2. Dozens of semiconductor manufacturers and packaging companies such as Intel, Texas Instruments, Sony, Toshiba, Hitachi, Matsushita, Sanyo, Samsung, Micron, and Infineon have taken licenses to Tessera’s patented technology. The rights granted by Tessera under its patents enable companies like Ericsson, Sony, and Dell to continue to shrink the size of cell phones and PDAs, and to develop the fastest workstations, PCs, servers and other electronic products on the market today. Tessera’s technology also enables defense contractors such as General Dynamics, as well as government agencies and the U.S. Army, to advance our nation’s homeland defense and military preparedness. Tessera’s patented innovations have already been incorporated into billions of semiconductors including ASICs, DRAM, DSPs, flash memory, and SRAM sold in the United States and throughout the world.

3. Regrettably, unlike the many licensed companies that have behaved responsibly and respected Tessera’s United States patents, Defendants have chosen to disregard Tessera’s rights.

They have made, and continue to make, extensive and profitable use of Tessera's patented advances without fairly compensating Tessera. Tessera has accordingly been forced to bring this action.

PARTIES

4. Plaintiff Tessera, Inc. is a Delaware corporation that maintains its principal place of business at 3099 Orchard Drive, San Jose, California 95134.

5. Defendant A-DATA Technology Co., Ltd. is a Taiwanese corporation with its principal place of business at 18F, No. 258, Lian Cheng Rd., Chung Ho City, Taipei, Taiwan 235.

6. Defendant A-DATA Technology (U.S.A.) Co., Ltd. is a California corporation with its principal place of business at 3149 Skyway Court, Fremont, California 94539. A-DATA Technology (U.S.A.) Co., Ltd. is a U.S. subsidiary of A-DATA Technology Co., Ltd.

7. Defendant Acer Inc. is a Taiwanese corporation with its principal place of business at 8F, 88, Sec. 1, Hsin Tai Wu Rd., Hsichih, Taipei, Hsien 221, Taiwan, R.O.C.

8. Defendant Acer America Corp. is a California corporation with its principal place of business at 333 W. San Carlos Street, Suite 1500, San Jose, California 95110. Acer America Corp. is a U.S. subsidiary of Acer Inc.

9. Defendant Centon Electronics, Inc. is a California corporation with its principal place of business at 15 Argonaut, Aliso Viejo, California 92656.

10. Defendant Elpida Memory, Inc. is a Japanese corporation with its principal place of business at Sumitomo Seimei Yaesu Bldg. 3F, 2-1, Yaesu 2-chome, Chuo-ku, Tokyo 104-0028 Japan.

11. Defendant Elpida Memory (USA) Inc. is a Delaware corporation with its principal place of business at 2001 Walsh Avenue, Santa Clara, California 95050. Elpida Memory (USA) Inc. is a wholly-owned subsidiary of Elpida Memory, Inc.

12. Defendant International Products Sourcing Group, Inc. is a Delaware corporation with its principal place of business at 4055 Leap Road, Hilliard, Ohio 43026.

13. Defendant Kingston Technology Co., Inc. is a Delaware corporation with its principal place of business at 17600 Newhope St., Fountain Valley, California 92708.

14. Defendant Nanya Technology Corp. is a Taiwanese corporation with its principal place of business at Hwa Ya Technology Park, 669, Fu Hsing 3rd Rd., Kueishan, Taoyuan 333, Taiwan, R.O.C.

15. Defendant Nanya Technology Corp. U.S.A. is a California corporation with its principal place of business at 675 East Brokaw Road, San Jose, California 95112. Nanya Technology Corp. U.S.A. is a wholly-owned subsidiary of Nanya Technology Corp.

16. Defendant Peripheral Devices & Products Systems, Inc. is a California corporation with its principal place of business at 47027 Benicia Street, Fremont, California 94538. Peripheral Devices & Products Systems, Inc. does business as Patriot Memory and is referred to herein as “Patriot.”

17. Defendant Powerchip Semiconductor Corp. is a Taiwanese corporation with its principal place of business at No. 12, Li-Hsin 1st Rd., Hsinchu Science Park, Hsinchu, Taiwan, R.O.C.

18. Defendant ProMOS Technologies, Inc. is a Taiwanese corporation with its principal place of business at No. 19, Li-Hsin Rd., Hsinchu Science Park, Hsinchu, Taiwan 30078, R.O.C.

19. Defendant Ramaxel Technology Ltd. is a Chinese corporation with its principal place of business at 3F-5F, North Block, Southeast Industrial & Commercial Building, Houhai Avenue, Shekou, Shenzhen, Guangdong, China 518067.

20. Defendant SMART Modular Technologies, Inc. is a California corporation with its principal place of business at 4211 Starboard Drive, Fremont, California 94538.

21. Defendant TwinMOS Technologies Inc. is a Taiwanese corporation with its principal place of business at No. 3, Tzu Chiang Rd., Hsin-Chu Industrial District, Hu Kou Xiang, Hsin-Chu, Taiwan R.O.C. 303.

22. Defendant TwinMOS Technologies USA Inc. is California corporation with its principal place of business at 1649 S. Main Street, Suite 105, Milpitas California 95035. TwinMOS Technologies USA Inc. is a U.S. subsidiary of TwinMOS Technologies Inc.

JURISDICTION AND VENUE

23. This action arises under the patent laws of the United States, Title 35, United States Code § 1, *et seq.* The jurisdiction of this Court over the subject matter of this action is proper under 28 U.S.C. §§ 1331 and 1338.

24. Personal jurisdiction exists generally over Defendants because they have minimum contacts with this forum as a result of business regularly conducted within the State of Texas and within this district and specifically as a result of, at least, Defendants' distribution networks wherein Defendants place products that infringe Tessera's patents within the stream of commerce such that those products are imported into the United States and flow into Texas and this district, and by committing the tort of patent infringement within Texas and this district.

25. Venue is proper in this Court under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

PATENTS AT ISSUE

26. On October 21, 1997, United States Patent No. 5,679,977 ("the '977 patent"), entitled "Semiconductor Chip Assemblies, Methods of Making Same and Components for Same," was duly and legally issued to Tessera, Inc. with Igor Y. Khandros and Thomas H. Distefano as inventors. By assignment, Tessera is the owner of all right, title and interest in the '977 patent. A copy of the '977 patent is attached to this Complaint as Exhibit A.

27. On October 17, 2000, United States Patent No. 6,133,627 (“the ’627 patent”), entitled “Semiconductor Chip Package with Center Contacts,” was duly and legally issued to Tessera, Inc. with Igor Y. Khandros and Thomas H. Distefano as inventors. By assignment, Tessera is the owner of all right, title and interest in the ’627 patent. A copy of the ’627 patent is attached to this Complaint as Exhibit B.

28. On September 2, 1997, United States Patent No. 5,663,106 (“the ’106 patent”), entitled “Method of Encapsulating Die and Chip Carrier,” was duly and legally issued to Tessera, Inc. with Konstantine Karavakis, Thomas H. Distefano, John W. Smith, Jr., and Craig Mitchell as inventors. By assignment, Tessera is the owner of all right, title and interest in the ’106 patent. A copy of the ’106 patent is attached to this Complaint as Exhibit C.

29. On October 1, 2002, United States Patent No. 6,458,681 (“the ’681 patent”), entitled “Method for Providing Void Free Layer for Semiconductor Assemblies,” was duly and legally issued to Tessera, Inc. with Thomas H. Distefano and Joseph Fjelstad as inventors. By assignment, Tessera is the owner of all right, title and interest in the ’681 patent. A copy of the ’681 patent is attached to this Complaint as Exhibit D.

30. The ’977 patent, ’627 patent, ’106 patent, and ’681 patent are collectively referred to as the “Tessera Patents.”

COUNT ONE
INFRINGEMENT OF THE ’977 PATENT

31. Tessera realleges and incorporates by reference paragraphs 1 through 30 as if set forth herein in full.

32. In violation of 35 U.S.C. § 271, Defendants are now, and have been, infringing, contributorily infringing and/or inducing infringement of the ’977 patent by, among other things, making, using, offering to sell, selling and/or importing without authority or license from Tessera infringing packaged semiconductor components and assemblies thereof, including, for example,

semiconductor chips having ball grid array packages and modules containing semiconductor chips having ball grid array packages.

33. On information and belief, Defendants have had knowledge of the '977 patent through direct or indirect communications with Tessera and/or as a result of their participation in the semiconductor industry. Thus Defendants' infringement of the '977 patent is and has been deliberate and willful.

34. Unless enjoined, Defendants will continue to infringe the '977 patent, and Tessera will suffer irreparable injury as a direct and proximate result of Defendants' conduct.

35. Tessera has been damaged by Defendants' conduct and, until an injunction issues, will continue to be damaged in an amount yet to be determined.

COUNT TWO
INFRINGEMENT OF THE '627 PATENT

36. Tessera realleges and incorporates by reference paragraphs 1 through 30 as if set forth herein in full.

37. In violation of 35 U.S.C. § 271, Defendants are now, and have been, infringing, contributorily infringing and/or inducing infringement of the '627 patent by, among other things, making, using, offering to sell, selling and/or importing without authority or license from Tessera infringing packaged semiconductor components and assemblies thereof, including, for example, semiconductor chips having ball grid array packages and modules containing semiconductor chips having ball grid array packages.

38. On information and belief, Defendants have had knowledge of the '627 patent through direct or indirect communications with Tessera and/or as a result of their participation in the semiconductor industry. Thus Defendants' infringement of the '627 patent is and has been deliberate and willful.

39. Unless enjoined, Defendants will continue to infringe the '627 patent, and Tessera will suffer irreparable injury as a direct and proximate result of Defendants' conduct.

40. Tessera has been damaged by Defendants' conduct and, until an injunction issues, will continue to be damaged in an amount yet to be determined.

COUNT THREE
INFRINGEMENT OF THE '106 PATENT

41. Tessera realleges and incorporates by reference paragraphs 1 through 30 as if set forth herein in full.

42. In violation of 35 U.S.C. § 271, Defendants are now, and have been, infringing, contributorily infringing and/or inducing infringement of the '106 patent by, among other things, making, using, offering to sell, selling and/or importing without authority or license from Tessera products made by a process patented in the United States, including, for example, semiconductor chips having ball grid array packages and modules containing semiconductor chips having ball grid array packages.

43. Unless enjoined, Defendants will continue to infringe the '106 patent, and Tessera will suffer irreparable injury as a direct and proximate result of Defendants' conduct.

44. Tessera has been damaged by Defendants' conduct and, until an injunction issues, will continue to be damaged in an amount yet to be determined.

COUNT FOUR
INFRINGEMENT OF THE '681 PATENT

45. Tessera realleges and incorporates by reference paragraphs 1 through 30 as if set forth herein in full.

46. In violation of 35 U.S.C. § 271, Defendants are now, and have been, infringing, contributorily infringing and/or inducing infringement of the '681 patent by, among other things, making, using, offering to sell, selling and/or importing without authority or license from Tessera products made by a process patented in the United States, including, for example, semiconductor

chips having ball grid array packages and modules containing semiconductor chips having ball grid array packages.

47. Unless enjoined, Defendants will continue to infringe the '681 patent, and Tessera will suffer irreparable injury as a direct and proximate result of Defendants' conduct.

48. Tessera has been damaged by Defendants' conduct and, until an injunction issues, will continue to be damaged in an amount yet to be determined.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Tessera respectfully requests that this Court enter judgment against each of the Defendants as follows:

- A. That each of the Tessera Patents is valid and enforceable;
- B. That each of the Defendants has infringed, contributorily infringed, and/or induced infringement of each of the Tessera Patents;
- C. That each of the Defendants' infringement, contributory infringement, and/or induced infringement of at least the '977 and '627 patents has been willful;
- D. An injunction entered against each Defendant preventing further infringement, contributory infringement, and/or induced infringement of each of the Tessera Patents;
- E. An award of damages entered against each Defendant adequate to compensate Tessera for the patent infringement that has occurred, together with pre-judgment interest and costs;
- F. An award of all other damages entered against each Defendant permitted by 35 U.S.C. § 284, including increased damages up to three times the amount of compensatory damages found for infringement of at least the '977 and '627 patents;
- G. That this is an exceptional case and an award to Tessera of its costs and reasonable attorney's fees incurred in this action as provided by 35 U.S.C. § 285; and
- H. Such other relief as this Court deems just and proper.

DATE: December 7, 2007

Respectfully submitted,

By: /s/ Mark N. Reiter

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Attorneys for Plaintiff, Tessera, Inc.

DEMAND FOR JURY TRIAL

Tessera hereby demands a trial by jury on all issues triable to a jury.

DATE: December 7, 2007

Respectfully submitted,

By: /s/ Mark N. Reiter

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