

1 Alan H. Blankenheimer (AZ Bar No. 006164)
ablankenheimer@cov.com
2 Jo Dale Carothers (AZ Bar No. 020402)
jcarothers@cov.com
3 COVINGTON & BURLING LLP
9191 Towne Centre Drive, Suite 600
4 San Diego, CA 92122
Telephone: (858) 678-1800
5 Facsimile: (858) 678-1600

6 Attorneys for Plaintiff
Microchip Technology Incorporated
7

8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF ARIZONA**

10
11 MICROCHIP TECHNOLOGY
INCORPORATED,

12 Plaintiff,

13 v.
14

15 LSI CORPORATION, and
AGERE SYSTEMS INC.,

16 Defendants.
17

Case No. _____

**COMPLAINT FOR DECLARATORY
JUDGMENT OF PATENT
NONINFRINGEMENT AND
INVALIDITY**

DEMAND FOR JURY TRIAL

18
19 Microchip Technology Incorporated hereby alleges for its complaint against
20 Agere Systems Inc. and LSI Corporation, on personal knowledge as to its own activities
21 and on information and belief as to the activities of others, as follows:

22 **THE PARTIES**

23 1. Microchip Technology Incorporated (“Microchip”) is a corporation
24 organized and existing under the laws of the State of Delaware, with its principal place
25 of business at 2355 West Chandler Blvd., Chandler, Arizona 85224. Microchip is a
26 leading provider of microcontroller, analog, memory and Flash-IP solutions.

27 2. On information and belief, Defendant LSI Corporation (“LSI”) is a
28 corporation organized under the laws of the State of California and the state of Delaware

1 with its principal place of business at 1621 Barber Lane, Milpitas, California 95035, and
2 regularly conducts business in the District of Arizona.

3 3. On information and belief, Defendant Agere Systems Inc. (“Agere”) is a
4 corporation organized under the laws of the State of Delaware with its principal place of
5 business at 1110 American Parkway, Allentown, Pennsylvania 18109. On information
6 and belief, Agere is a wholly owned subsidiary of LSI and regularly conducts business in
7 the District of Arizona.

8 **NATURE OF THE ACTION**

9 4. This is an action for a declaratory judgment that Microchip does not
10 infringe any valid claim of United States Patent Nos. 5,663,900 (“the ‘900 patent”),
11 6,153,543 (“the ‘543 patent”), 5,373,180 (“the ‘180 patent”), 5,693,561 (“the ‘561
12 patent”), 5,523,259 (“the ‘259 patent”) and 5,599,739 (“the ‘739 patent”) (collectively,
13 “the LSI Patents”).

- 14 5. A true and correct copy of the ‘900 patent is attached hereto as Exhibit A.
- 15 6. A true and correct copy of the ‘543 patent is attached hereto as Exhibit B.
- 16 7. A true and correct copy of the ‘180 patent is attached hereto as Exhibit C.
- 17 8. A true and correct copy of the ‘561 patent is attached hereto as Exhibit D.
- 18 9. A true and correct copy of the ‘259 patent is attached hereto as Exhibit E.
- 19 10. A true and correct copy of the ‘739 patent is attached hereto as Exhibit F.

20 **JURISDICTION**

21 11. This Complaint is brought pursuant to the Declaratory Judgment Act,
22 codified at 28 U.S.C. §§ 2201 et seq. As discussed in detail below, declaratory judgment
23 jurisdiction is proper because there is a case or controversy between Microchip, on the
24 one hand, and LSI and Agere, on the other. Jurisdiction is proper in this Court pursuant
25 to 28 U.S.C. §§ 1331 and 1338(a), because this action arises under the patents laws of
26 the United States, including, without limitation, 35 U.S.C. § 1 et seq.

27 12. Through written and in-person communications sent to or occurring in
28 Arizona, LSI has expressly accused Microchip of infringing specific claims of each of

1 the LSI Patents by manufacturing and/or selling specific products, including, without
2 limitation, Microchip PIC10, PIC12, PIC16, PIC18, PIC24F, PIC24H, dsPIC30,
3 dsPIC33, PIC32, PWM Controller, 10/100 Controller, 16Kbit EEPROM, 1Mbit
4 EEMPROM and 802.15.4 Zig Bee Transceiver devices.

5 13. LSI has represented that it owns and has the right to enforce the LSI
6 Patents, either directly or through its wholly-owned subsidiary Agere. On information
7 and belief, the '180 patent, the '739 patent, the '561 patent, the '543 patent and the '259
8 patent all have been assigned to Agere, and the '900 patent has been assigned to LSI.

9 14. Contrary to LSI's accusations, no Microchip product infringes any valid
10 claim of the '180, 739, '561, '543 and '900 patents, and no product manufactured by
11 Microchip or using a Microchip process infringes any valid claim of the '259 patent.

12 15. As a result of LSI's conduct on its own and Agere's behalf, there is a "case
13 or controversy" of sufficient immediacy and reality between the parties to be justiciable
14 under the Declaratory Judgment Act, 28 U.S.C. §§ 2201, and jurisdiction is proper in
15 this Court.

16 **PERSONAL JURISDICTION AND VENUE**

17 16. On information and belief, LSI has sufficient contacts with this judicial
18 district and regularly conducts business within this judicial district. On information and
19 belief, LSI directly distributes, offers for sale or license, sells or licenses, and advertises
20 its products and services within the State of Arizona and this judicial district.

21 17. On information and belief, Agere has sufficient contacts with this judicial
22 district and regularly conducts business within this judicial district. On information and
23 belief, Agere directly distributes, offers for sale or license, sells or licenses, and
24 advertises its products and services within the State of Arizona and this judicial district.

25 18. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)-(c) and/or
26 § 1400(b) because, *inter alia*, a substantial part of the events giving rise to the claims
27 occurred in this district and because LSI and Agere are corporations that are subject to
28 personal jurisdiction in this district.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 1:

NONINFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 5,663,900

19. Microchip realleges and incorporates the allegations of Paragraphs 1-18 as if set forth herein in their entirety.

20. No Microchip product infringes or has infringed, either directly or indirectly, any valid claim of the '900 patent.

21. An actual controversy exists between Microchip and LSI with respect to whether Microchip infringes a valid claim of the '900 patent.

22. Microchip seeks a declaration that it does not infringe any claim of the '900 patent and/or that such claims are invalid for failure to comply with one or more of the requirements of the patent laws of the United States, including, without limitation, those codified by 35 U.S.C. §§ 101, 102, 103 and 112.

COUNT 2:

NONINFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 6,153,543

23. Microchip realleges and incorporates the allegations of Paragraphs 1-18 as if set forth herein in their entirety.

24. No Microchip product infringes or has infringed, either directly or indirectly, any valid claim of the '543 patent.

25. An actual controversy exists between Microchip, on the one hand, and LSI and Agere, on the other, with respect to whether any Microchip product infringes a valid claim of the '543 patent.

26. Microchip seeks a declaration that it does not infringe any claim of the '543 patent and/or that such claims are invalid for failure to comply with one or more of the requirements of the patent laws of the United States, including, without limitation, those codified by 35 U.S.C. §§ 101, 102, 103 and 112.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 3:

NONINFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 5,373,180

27. Microchip realleges and incorporates the allegations of Paragraphs 1-18 as if set forth herein in their entirety.

28. No Microchip product infringes or has infringed, either directly or indirectly, any valid claim of the '180 patent.

29. An actual controversy exists between Microchip, on the one hand, and LSI and Agere, on the other, with respect to whether any Microchip product infringes a valid claim of the '180 patent.

30. Microchip seeks a declaration that it does not infringe any claim of the '180 patent and/or that such claims are invalid for failure to comply with one or more of the requirements of the patent laws of the United States, including, without limitation, those codified by 35 U.S.C. §§ 101, 102, 103 and 112.

COUNT 4:

NONINFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 5,693,561

31. Microchip realleges and incorporates the allegations of Paragraphs 1-18 as if set forth herein in their entirety.

32. No Microchip product infringes or has infringed, either directly or indirectly, any valid claim of the '561 patent.

33. An actual controversy exists between Microchip, on the one hand, and LSI and Agere, on the other, with respect to whether any Microchip product infringes a valid claim of the '561 patent.

34. Microchip seeks a declaration that it does not infringe any claim of the '561 patent and/or that such claims are invalid for failure to comply with one or more of the requirements of the patent laws of the United States, including, without limitation, those codified by 35 U.S.C. §§ 101, 102, 103 and 112.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COUNT 5:

NONINFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 5,523,259

35. Microchip realleges and incorporates the allegations of Paragraphs 1-18 as if set forth herein in their entirety.

36. No product manufactured by Microchip or using a Microchip process infringes or has infringed, either directly or indirectly, any valid claim of the '259 patent.

37. An actual controversy exists between Microchip, on the one hand, and LSI and Agere, on the other, with respect to whether any product manufactured by Microchip or using a Microchip process infringes a valid claim of the '259 patent.

38. Microchip seeks a declaration that each claim of the '259 patent is not infringed by any product manufactured by Microchip and/or using a Microchip process, and/or that such claims are invalid for failure to comply with one or more of the requirements of the patent laws of the United States, including, without limitation, those codified by 35 U.S.C. §§ 101, 102, 103 and 112.

COUNT 6:

NONINFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 5,599,739

39. Microchip realleges and incorporates the allegations of Paragraphs 1-18 as if set forth herein in their entirety.

40. No Microchip product infringes or has infringed, either directly or indirectly, any valid claim of the '739 patent.

41. An actual controversy exists between Microchip, on the one hand, and LSI and Agere, on the other, with respect to whether any Microchip product infringes a valid claim of the '739 patent.

42. Microchip seeks a declaration that it does not infringe any claim of the '739 patent and/or that such claims are invalid for failure to comply with one or more of the requirements of the patent laws of the United States, including, without limitation, those codified by 35 U.S.C. §§ 101, 102, 103 and 112.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

43. Microchip demands a jury trial on all claims and issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Microchip prays for an Order and entry of Judgment against LSI and Agere as follows:

A. Declaring that Microchip does not infringe the ‘900 patent and/or that the claims of the ‘900 patent are invalid;

B. Declaring that Microchip does not infringe the ‘543 patent and/or that the claims of the ‘543 patent are invalid;

C. Declaring that Microchip does not infringe the ‘180 patent, and/or that the claims of the ‘180 patent are invalid;

D. Declaring that Microchip does not infringe the ‘561 patent and/or that the claims of the ‘561 patent are invalid;

E. Declaring that no product manufactured by Microchip and/or using a Microchip process infringes the ‘259 patent and/or that the claims of the ‘259 patent are invalid;

F. Declaring that Microchip does not infringe the ‘739 patent and/or that the claims of the ‘739 patent are invalid;

G. Declaring this case exceptional under 35 U.S.C. § 285 and awarding Microchip its reasonable attorneys’ fees in this action;

H. Awarding Microchip its costs and expenses in this action; and

I. Granting such other and further relief as the Court deems proper and just.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED this 5th day of July, 2011.

By: /s/ Alan H. Blankenheimer
Alan H. Blankenheimer
(AZ Bar No. 006164)
Jo Dale Carothers
(AZ Bar No. 020402)

Attorneys for Plaintiff
Microchip Technology Incorporated