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Attorneys for Plaintiff
 International Business Machines Corp.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

INTERNATIONAL BUSINESS MACHINES
 CORPORATION,
 Plaintiff,
 vs.
 ACQIS LLC,
 Defendant.

CASE NO. CV11-04896 PSG
**FIRST AMENDED COMPLAINT FOR
 DECLARATORY JUDGMENT OF
 PATENT NON-INFRINGEMENT AND
 INVALIDITY**
DEMAND FOR JURY TRIAL

1 Plaintiff International Business Machines Corporation (“IBM”) brings this action against
2 Defendant ACQIS LLC (“ACQIS”) and complains as follows:

3 **THE NATURE OF THE ACTION**

4 1. ACQIS is the named assignee of U.S. Reissued Patent No. RE42814 (“the
5 RE42814 Patent”), issued at 12:01 a.m., Eastern Standard Time, on October 4, 2011, and entitled
6 “Password Protected Modular Computer Method and Device,” and U.S. Patent No. 8,041,873
7 (“the ‘873 Patent”), issued at 12:01 a.m., Eastern Standard Time, on October 18, 2011, and
8 entitled “Multiple Module Computer System and Method Including Differential Signal Channel
9 Comprising Unidirectional Serial Bit Channels to Transmit Encoded Peripheral Component
10 Interconnect Bus Transaction Data” (collectively, “the ACQIS Patents”)

11 2. As a result of ACQIS’s communication to IBM of its intention to pursue claims of
12 infringement of the ACQIS Patents against IBM, IBM is under reasonable apprehension of suit by
13 ACQIS. IBM does not infringe and has not infringed the ACQIS Patents, which are invalid. IBM
14 brings this action to obtain declaratory judgments of non-infringement and invalidity of the
15 ACQIS Patents.

16 **THE PARTIES**

17 3. IBM is a corporation organized under the laws of New York, with its principal
18 place of business at 1 New Orchard Road, Armonk, New York 10504.

19 4. IBM is informed and believes and on that basis alleges that ACQIS is a limited
20 liability company organized under the laws of Texas, with its principal place of business at 1621
21 W. El Camino Real, Suite 202 , Mountain View, California 94040.

22 **JURISDICTION AND VENUE**

23 5. This action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

24 6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§
25 1331, 1338(a), 2201, and 2202.

26 7. IBM is informed and believes and on that basis alleges that ACQIS’s only current
27 employee is Dr. William Chu (“Dr. Chu”), whose principal place of business is at 1621 W. El
28 Camino Real, Suite 202 , Mountain View, California 94040.

1 8. IBM is informed and believes and on that basis alleges that Dr. Chu resides at 1320
2 Miraballe Avenue, Los Altos, California 94024.

3 9. IBM is informed and believes and on that basis alleges that the sole member of
4 ACQIS is Acqis Technology, Inc., a California corporation which maintains its corporate
5 headquarters at 1621 W. El Camino Real, Suite 202, Mountain View, California 94040.

6 10. IBM is informed and believes and on that basis alleges that although ACQIS
7 purports to have a business address at 411 Interchange Street, McKinney, Texas 75071, all or a
8 substantial predominance of the business operations of ACQIS are performed by Dr. Chu in
9 California, at either the Acqis Technology, Inc. offices located at 1621 W. El Camino Real, Suite
10 202, Mountain View, or at Dr. Chu's residence located at 1320 Miraballe Avenue, Los Altos,
11 California 94024.

12 11. IBM is informed and believes and on that basis alleges that the majority of
13 ACQIS's executive and administrative functions are performed at either the Acqis Technology,
14 Inc. offices located at 1621 W. El Camino Real, Suite 202, Mountain View, or at Dr. Chu's
15 residence located at 1320 Miraballe Avenue, Los Altos, California 94024.

16 12. On or about July 20, 2011, ACQIS communicated in writing to IBM its intention to
17 pursue claims of infringement against IBM with respect to allowed but unissued claims in then
18 pending U.S. Patent Application No. 12/322,858, which application has now matured into the
19 RE42814 Patent, and pending U.S. Patent Application No. 12/504,534, which application has now
20 matured into the '873 Patent. This written communication was directed to IBM's legal counsel
21 located in San Francisco, California, and in Redwood Shores, California.

22 13. Based on the foregoing, IBM alleges that this Court has personal jurisdiction over
23 ACQIS.

24 14. This Court can enter the declaratory relief sought in this Complaint because an
25 actual case and controversy exists between the parties within the scope of this Court's jurisdiction
26 pursuant to 28 U.S.C. § 2201. An actual case and controversy exists because, on or about July 20,
27 2011 and thereafter, ACQIS put IBM on notice of ACQIS's intention to pursue claims of
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1 infringement of the ACQIS Patents against IBM, thereby causing IBM reasonably to apprehend
2 litigation of the ACQIS Patents.

3 15. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c).

4 **INTRADISTRICT ASSIGNMENT**

5 16. Because this action is an Intellectual Property Action within the meaning of Civil
6 Local Rule 3-2(c), the action is to be assigned on a district-wide basis.

7 **GENERAL ALLEGATIONS**

8 17. IBM is informed and believes and on that basis alleges that ACQIS is the assignee
9 of the ACQIS Patents.

10 18. On or about July 20, 2011, prior to issuance of the ACQIS Patents but following a
11 notice of allowance, ACQIS communicated to IBM its intention to pursue claims of infringement
12 against IBM upon issuance of the ACQIS Patents and requested that IBM be prepared to discuss a
13 license concerning the yet-to-be-issued ACQIS Patents at a previously scheduled mediation
14 (concerning other litigation pending between ACQIS and IBM) between the parties on July 22,
15 2011 in San Francisco, California.

16 19. ACQIS's actions have caused IBM reasonably to apprehend litigation of the
17 ACQIS Patents.

18 20. IBM does not infringe and has not infringed, either directly, contributorily, or by
19 inducement, any valid and enforceable claim of the ACQIS Patents, either literally or under the
20 doctrine of equivalents.

21 **FIRST CLAIM FOR RELIEF**

22 **(Declaratory Judgment of Non-Infringement of the RE42814 Patent)**

23 21. IBM realleges and incorporates by reference paragraphs 1 through 20, inclusive, as
24 though fully set forth in this paragraph.

25 22. IBM does not make, use, offer for sale, sell, import, or export, and has not ever
26 made, used, offered to sell, sold, imported, or exported, a method, device, or apparatus that
27 infringes, either directly, contributorily, or by inducement, any valid and enforceable claim of the
28 RE42814 Patent, either literally or under the doctrine of equivalents.

FOURTH CLAIM FOR RELIEF

(Declaratory Judgment of Invalidity of the '873 Patent)

32. IBM realleges and incorporates by reference paragraphs 1 through 31, inclusive, as though fully set forth in this paragraph.

33. The '873 Patent is invalid for failure to comply with the requirements of Title 35 of the U.S. Code, including at least one or more of 35 U.S.C. §§ 101, 102, 103, 112, 133, 200 *et seq.*, and 301 *et seq.*

34. IBM is entitled to a declaratory judgment that the claims of the '873 Patent are invalid.

PRAYER FOR RELIEF

WHEREFORE, IBM prays for judgment against ACQIS as follows:

A. For a declaration that IBM does not infringe, either directly, contributorily, or by inducement, any valid and enforceable claim of the RE42814 Patent, either literally or under the doctrine of equivalents;

B. For a declaration that IBM does not infringe, either directly, contributorily, or by inducement, any valid and enforceable claim of the '873 Patent, either literally or under the doctrine of equivalents;

C. For a declaration that the RE42814 Patent is invalid;

D. For a declaration that the '873 Patent is invalid;

E. For an order awarding IBM its costs; and

F. For such other relief as this Court deems just and proper.

DATED: October 18, 2011

QUINN EMANUEL URQUHART & SULLIVAN,
LLP

By /s/ Robert W. Stone

Robert W. Stone

*Counsel for Plaintiff International Business
Machines Corp.*

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DEMAND FOR JURY TRIAL

In accordance with Federal Rule of Civil Procedure 38(b), Plaintiff International Business Machines Corp. demands a trial by jury on all issues triable by jury.

DATED: October 18, 2011

QUINN EMANUEL URQUHART & SULLIVAN,
LLP

By /s/ Robert W. Stone
Robert W. Stone

*Counsel for Plaintiff International Business
Machines Corp.*