

**FILED**

**UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA**

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CLERK US DISTRICT COURT  
ALEXANDRIA, VIRGINIA

**ELPIDA MEMORY, INC.**

**Plaintiff,**

**v.**

**INFINEON TECHNOLOGIES AG and  
INFINEON TECHNOLOGIES NORTH  
AMERICA CORP.,**

**Defendants.**

Civil Action No.: *2-10CV152*

*JBF/FBS*

**COMPLAINT FOR PATENT  
INFRINGEMENT AND DEMAND  
FOR JURY TRIAL**

**Nature of the Action**

1. This is a civil action for infringement of U.S. Patent Nos. 5,237,187 ("the '187 patent"), 5,383,080 ("the '080 patent"), 6,067,257 ("the '257 patent"), and 6,555,861 ("the '861 patent") arising under the laws of the United States relating to patents, including 35 U.S.C. §§ 271 and 281.

**Parties**

2. Plaintiff Elpida Memory, Inc. ("Elpida") is a Japanese corporation having its headquarters and principal place of business at Sumitomo Seimei Yaesu Bldg. 3F, 2-1 Yaesu 2-chome, Chuo-ku, Tokyo 104-0028, Japan.

3. On information and belief, Defendant Infineon Technologies AG ("Infineon AG") is a German corporation with its headquarters located at Am Campeon 1-12, D-85579 Neubiberg, Germany.

4. On information and belief, Defendant Infineon Technologies North America Corp. (“Infineon NA”) is a Delaware corporation with its headquarters located at 640 N. McCarthy Blvd., Milpitas, California 95035.

**Background**

5. On information and belief, Defendant Infineon AG manufactures semiconductor devices in the form of microcontrollers used in automobiles, including but not limited to the Infineon SAK-C167CS-32 FM microcontroller, the Infineon XC800 family of microcontrollers, the Infineon XC2200 family of microcontrollers, and the Infineon TC1766 microcontroller, and other microcontrollers containing, using, or implementing similar structure and features (collectively “the Infineon microcontrollers”).

6. On information and belief, the Defendants offer for sale and sell the Infineon microcontrollers in the United States, and in this judicial district and division through Defendants’ corporate website, through various distributors, and through various Infineon NA sales offices located in the United States.

7. On information and belief, the Defendants also offer for sale and sell the Infineon microcontrollers to third parties for the purpose of incorporating the Infineon microcontrollers into automobiles offered for sale, sold and used in the United States, including in this judicial district and division.

8. Elpida has notified the Defendants that one or more of the Infineon microcontrollers infringed upon Elpida’s patents. Thus far, Defendants have refused to take a license for their infringing Infineon microcontrollers, and have continued to offer for sale and sell these products through Defendants’ corporate website, through various distributors, and through various Infineon NA sales offices, in reckless disregard of Elpida’s patent rights.

9. Additionally, despite notification that the Infineon microcontrollers infringe upon Elpida's patents, the Defendants continue to offer for sale and sell the Infineon microcontrollers to third parties for the incorporation of the Infineon microcontrollers into automobiles offered for sale, sold, and used in the United States.

### **Jurisdiction and Venue**

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§1331 and 1338(a) because this action arises under the Patent Laws of the United States, Title 35, United States Code, including 35 U.S.C. § 271 *et seq.*

11. This Court has personal jurisdiction over the Defendants. On information and belief, the Defendants have manufactured and/or assembled products that infringe one or more claims of the patents-in-suit and that are used, offered for sale, imported, or sold in Virginia and in this district.

12. On information and belief, the Defendants have committed acts of infringement of one or more claims of the patents-in-suit, have induced others to commit such acts of infringement, and/or have contributed to such infringing acts of others in this judicial district and division.

13. On information and belief, the Defendants voluntarily placed products that would infringe one or more claims of the patents-in-suit into the stream of United States commerce, conscious that Virginia, including this judicial district, was the likely destination of a substantial quantity of such devices.

14. On information and belief, the Defendants are subject to personal jurisdiction in this district because they purposefully engaged in activities that gave rise to this claim for patent infringement and which were directed at residents of Virginia and this judicial district. The

exercise of jurisdiction over the Defendants would not offend traditional notions of fair play and substantial justice.

15. On information and belief, Infineon AG is also subject to personal jurisdiction in this district because it has, and continues to, avail itself of the Federal Courts in this jurisdiction and district, including, but not limited to the case *In re Qimonda AG Bankruptcy Litigation*, 1:10-CV-00027 (E.D. Va. filed Jan. 11, 2010). In that case, Infineon AG has appealed to this Court from an Order of the Bankruptcy Court involving a Henrico County, Virginia, semiconductor fabrication plant previously owned and operated at least in part by Infineon AG.

16. On information and belief, venue for this civil action in this judicial district is proper under 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b).

**First Count  
(Patent Infringement)  
35 U.S.C. §§ 271 and 281**

17. Elpida realleges and incorporates by reference each of paragraphs 1-16 above.

18. On August 17, 1993, the '187 patent for a "Semiconductor Memory Circuit Device and Method for Fabricating Same" was duly and legally issued to Naokatsu Suwanai, Hiroyuki Miyazawa, Atushi Ogishima, Masaki Nagao, Kyoichiro Asayama, Hiroyuki Uchiyama, Yoshiyuki Kaneko, Takashi Yoneoka, Kozo Watanabe, Kazuya Endo, and Hiroki Soeda. A true and correct copy of the '187 patent is attached hereto as Exhibit A.

19. Plaintiff Elpida owns the '187 patent and has the exclusive right to license the '187 patent as well as to sue for and collect fees, costs, and damages, including damages for past infringement of the '187 patent.

20. The '187 patent generally relates to semiconductor devices.

21. On information and belief, Defendants have infringed, induced others to infringe, and/or committed acts of contributory infringement regarding one or more of the claims of the '187 patent, including but not limited to claim 10. On information and belief, Defendants' infringing activities in the United States include the manufacture, use, sale, importation, and/or offer for sale the Infineon microcontrollers including but not limited to the Infineon SAK-C167CS-32 FM microcontroller, the Infineon XC2200 family of microcontrollers, and the Infineon TC1766 microcontroller.

22. On information and belief, Defendants' infringing activities include offering for sale and selling the Infineon microcontrollers to third parties for the purpose of incorporating the Infineon microcontrollers into automobiles offered for sale, sold and used in the United States, with knowledge of, or deliberate indifference to, the '187 patent. On information and belief, the Infineon microprocessors are made or adapted for use in a manner that infringes the '187 patent, and are not staple articles of commerce with substantial non-infringing uses.

23. Such acts by the Defendants infringe one or more claims of the '187 patent under at least 35 U.S.C. § 271(a), (b), and/or (c).

24. As a consequence of the infringing activities by Defendants complained of herein, Elpida has been damaged in an amount not yet determined. Defendants' infringement of Elpida's exclusive rights under the '187 patent will continue to damage Elpida, causing irreparable harm, for which there is no adequate remedy at law, unless Defendants are enjoined by this Court.

25. On information and belief, the Defendants' infringement is willful and deliberate, entitling Elpida to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

**Second Count  
(Patent Infringement)  
35 U.S.C. §§ 271 and 281**

26. Elpida realleges and incorporates by reference each of paragraphs 1-16 above.

27. On January 17, 1995, the '080 patent for a "Semiconductor Integrated Circuit Having Voltage Limiter Circuit" was duly and legally issued to Jun Etoh, Masakazu Aoki, Masashi Horiguchi, Shigeki Ueda, Hitoshi Tanaka, Kazuhiko Kajigaya, Tsugio Takahashi, and Hiroshi Kawamoto. A true and correct copy of the '080 patent is attached hereto as Exhibit B.

28. Plaintiff Elpida owns the '080 patent and has the exclusive right to license the '080 patent as well as to sue for and collect fees, costs, and damages, including damages for past infringement of the '080 patent.

29. The '080 patent generally relates to semiconductor devices.

30. On information and belief, Defendants have infringed, induced others to infringe, and/or committed acts of contributory infringement regarding one or more of the claims of the '080 patent, including but not limited to claims 1 and 2. On information and belief, Defendants' infringing activities in the United States include the manufacture, use, sale, importation, and/or offer for sale of the Infineon microprocessors, including but not limited to the Infineon XC800 family of microcontrollers.

31. On information and belief, Defendants' infringing activities include offering for sale and selling the Infineon microcontrollers to third parties for the purpose of incorporating the Infineon microcontrollers into automobiles offered for sale, sold and used in the United States, with knowledge of, or deliberate indifference to, the '080 patent. On information and belief, the Infineon microprocessors are made or adapted for use in a manner that infringes the '080 patent, and are not staple articles of commerce with substantial non-infringing uses.

32. Such acts by the Defendants infringe one or more claims of the '080 patent under at least 35 U.S.C. § 271(a), (b), and/or (c).

33. As a consequence of the infringing activities by Defendants complained of herein, Elpida has been damaged in an amount not yet determined. Defendants' infringement of Elpida's exclusive rights under the '080 patent will continue to damage Elpida, causing irreparable harm, for which there is no adequate remedy at law, unless Defendants are enjoined by this Court.

34. On information and belief, the Defendants' infringement is willful and deliberate, entitling Elpida to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

**Third Count  
(Patent Infringement)  
35 U.S.C. §§ 271 and 281**

35. Elpida realleges and incorporates by reference each of paragraphs 1-16 above.

36. On May 23, 2000, the '257 patent for a "Semiconductor Integrated Circuit Device Having Step-Down Voltage Circuit" was duly and legally issued to Goro Kitsukawa and Yoji Idei. A true and correct copy of the '257 patent is attached hereto as Exhibit C.

37. Plaintiff Elpida owns the '257 patent and has the exclusive right to license the '257 patent as well as to sue for and collect fees, costs, and damages, including damages for past infringement of the '257 patent.

38. The '257 patent generally relates to semiconductor devices.

39. On information and belief, Defendants have infringed, induced others to infringe, and/or committed acts of contributory infringement regarding one or more of the claims of the '257 patent, including but not limited to claims 1 and 3. On information and belief, Defendants'

infringing activities in the United States include manufacture, use, sale, importation, and/or offer for sale of the Infineon microprocessors, including but not limited to the Infineon SAK-XC888CM microcontroller and XC800 family of microcontrollers.

40. On information and belief, Defendants' infringing activities include offering for sale and selling the Infineon microcontrollers to third parties for the purpose of incorporating the Infineon microcontrollers into automobiles offered for sale, sold and used in the United States, with knowledge of, or deliberate indifference to, the '257 patent. On information and belief, the Infineon microprocessors are made or adapted for use in a manner that infringes the '257 patent, and are not staple articles of commerce with substantial non-infringing uses.

41. Such acts by the Defendants infringe one or more claims of the '257 patent under at least 35 U.S.C. § 271(a), (b), and/or (c).

42. As a consequence of the infringing activities by Defendants complained of herein, Elpida has been damaged in an amount not yet determined. Defendants' infringement of Elpida's exclusive rights under the '257 patent will continue to damage Elpida, causing irreparable harm, for which there is no adequate remedy at law, unless Defendants are enjoined by this Court.

43. On information and belief, the Defendants' infringement is willful and deliberate, entitling Elpida to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.



**Fourth Count  
(Patent Infringement)  
35 U.S.C. §§ 271 and 281**

44. Elpida realleges and incorporates by reference each of paragraphs 1-16 above.

45. On April 29, 2003, the '861 patent for a "Semiconductor Integrated Circuit Device and Process for Manufacturing the Same" was duly and legally issued to Satoru Yamada, Kiyonori Oyu, Takafumi Tokunaga, Hiroyuki Enomoto, and Toshiro Sekiguchi. A true and correct copy of the '861 patent is attached hereto as Exhibit D.

46. Plaintiff Elpida owns the '861 patent and has the exclusive right to license the '861 patent as well as to sue for and collect fees, costs, and damages, including damages for past infringement of the '861 patent.

47. The '861 patent generally relates to semiconductor devices.

48. On information and belief, Defendants have infringed, induced others to infringe, and/or committed acts of contributory infringement regarding one or more of the claims of the '861 patent, including but not limited to claims 1, 4, and 23. On information and belief, Defendants' infringing activities in the United States include the manufacture, use, sale, importation, and/or offer for sale of the Infineon microprocessors, including but not limited to the TC1766 microcontroller and the Infineon XC2200 family of microcontrollers.

49. On information and belief, Defendants' infringing activities include offering for sale and selling the Infineon microcontrollers to third parties for the purpose of incorporating the Infineon microcontrollers into automobiles offered for sale, sold and used in the United States, with knowledge of, or deliberate indifference to, the '861 patent. On information and belief, the Infineon microprocessors are made or adapted for use in a manner that infringes the '861 patent, and are not staple articles of commerce with substantial non-infringing uses.

50. Such acts by the Defendants infringe one or more claims of the '861 patent under at least 35 U.S.C. § 271(a), (b), and/or (c).

51. As a consequence of the infringing activities by Defendants complained of herein, Elpida has been damaged in an amount not yet determined. Defendants' infringement of Elpida's exclusive rights under the '861 patent will continue to damage Elpida, causing irreparable harm, for which there is no adequate remedy at law, unless Defendants are enjoined by this Court.

52. On information and belief, the Defendants' infringement is willful and deliberate, entitling Elpida to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

**Requested Relief**

WHEREFORE Plaintiff requests the following relief:

A. The entry of judgment that Defendants have infringed each of the '187 patent, the '080 patent, the '257 patent and/or the '861 patent;

B. The entry of a permanent injunction, enjoining Defendants, their officers, agents, employees, privies, successors, and assigns, and those acting in concert or participation with them, from infringing the '187 patent, the '080 patent, the '257 patent, and the '861 patent;

C. That this Court ascertain and award Elpida damages sufficient to compensate it for Defendants' infringement of the '187 patent, the '080 patent, the '257 patent and/or the '861 patent, that the damages so ascertained be trebled according to 35 U.S.C. § 284 and awarded to Elpida with interest, and that judgment in the amount of this award be entered in favor of Elpida and against Defendants;

D. That this Court find this case to be exceptional, and under 35 U.S.C. § 285 award Elpida its attorneys' fees, costs, and expenses in this action; and

E. That this Court award Elpida such other and further relief as the Court may deem just and proper.

**Jury Demand**

Plaintiff demands a jury trial on all issues triable to a jury in this matter.

Dated: April 2, 2010

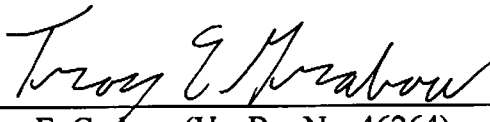
Respectfully submitted,

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