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E-filing E-filing

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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

EDL

15 SUPER MICRO COMPUTER, INC.,

16 Plaintiff,

17 v.

18 PHILLIP M. ADAMS & ASSOCIATES,
19 LLC, a Utah limited liability corporation;
20 AFTG-TG LLC, a Utah limited liability
21 company, and PHILLIP M. ADAMS, an
22 individual,

23 Defendants.

CASE NO. 11-0978
COMPLAINT FOR DECLARATORY
JUDGMENT OF NON-INFRINGEMENT
AND INVALIDITY OF U.S. PATENT NOS.
5,983,002; 6,401,222; 6,687,858; 7,251,752;
7,069,475; 7,409,601; 6,691,181; 7,249,203;
7,472,207; 6,842,802; 7,366,804; and
7,653,766

Demand for Jury Trial

24 Plaintiff Super Micro Computer, Inc. ("Super Micro") by and through their attorneys
25 alleges as follows:

26 1. This is a civil action arising under the patent laws of the United States, 35 U.S.C.
27 §§ 101, et seq., seeking a declaratory judgment, under 28 U.S.C. §§ 2201 and 2202, that no valid
28 and enforceable claims of the following twelve patents is infringed by Super Micro: United States
Patent Nos. 5,983,002 ("the '002 patent"); 6,401,222 ("the '222 patent"); 6,687,858 ("the '858
patent"); 7,251,752 ("the '752 patent"); 7,069,475 ("the '475 patent"); 7,409,601 ("the '601
patent") 6,691,181 ("the '181 patent"); 7,249,203 ("the '203 patent"); 7,472,207 ("the '207
patent"); 6,842,802 ("the '802 patent"); 7,366,804 ("the '804 patent"); and 7,653,766 ("the '766

1 patent”), and all related continuing applications (collectively the "patents-in-suit"). This
2 Complaint further seeks a declaratory judgment that the patents-in-suit are invalid as anticipated
3 under 35 U.S.C. § 102, invalid as obvious under 35 U.S.C. § 103, and invalid for failure to meet
4 the requirements of 35 U.S.C. § 112.

5 **THE PARTIES**

6 2. Plaintiff Super Micro is a California corporation with its principal place of
7 business 980 Rock Ave, San Jose, CA 95131. Super Micro designs, develops, manufactures and
8 sells energy-efficient, application optimized server solutions.

9 3. Defendant Phillip M. Adams & Associates, L.L.C. (“PMAA”) is a Wyoming
10 limited liability company with an address at 325 Federal Heights Circle, Salt Lake City, Utah
11 84103. PMAA has an alternative address at P.O. Box 1207, Bountiful, Utah 84011.

12 4. Super Micro is informed and believes, and based thereon alleges, that Defendant
13 AFTG-TG L.L.C. (“AFTG”) is a Wyoming limited liability company with an address at 325 N
14 Federal Heights Circle, Salt Lake City, Utah 84103.

15 5. Super Micro is informed and believes, and based thereon alleges, that Defendant
16 Phillip M. Adams (“Dr. Adams”) is a Wyoming resident. Super Micro is further informed and
17 believes, and based thereon alleges, that Dr. Adams is the principal owner and head of both
18 PMAA and AFTG, and Dr. Adams established such entities as patent holding companies.

19 6. Dr. Adams is listed as the inventor of United States Patent Nos. 5,983,002 (“the
20 ‘002 patent”); 6,401,222 (“the ‘222 patent”); 6,687,858 (“the ‘858 patent”); 7,251,752 (“the ‘752
21 patent”); 7,069,475 (“the ‘475 patent”); and 7,409,601 (“the ‘601 patent”). Super Micro is
22 informed and believes, and based thereon alleges, that Dr. Adams has assigned ownership of the
23 aforementioned patents to PMMA (“the PMMA patents”).

24 7. Dr. Adams is also listed as the inventor of United States Patent Nos. 6,691,181
25 (“the ‘181 patent”); 7,249,203 (“the ‘203 patent”); 7,472,207 (“the ‘207 patent”); 6,842,802 (“the
26 ‘802 patent”); 7,366,804 (“the ‘804 patent”); and 7,653,766 (“the ‘766 patent”). Super Micro is
27 informed and believes, and based thereon alleges, that Dr. Adams has assigned ownership of the
28 aforementioned patents to AFTG (“the AFTG patents”).

1 8. Super Micro is informed and believes, and based thereon alleges, that the PMAA
2 patents and AFTG patents are from the same patent family or families and/or related to the same
3 claimed devices, systems, methods and technologies.

4 **JURISDICTION AND VENUE**

5 9. Super Micro files this Complaint against Dr. Adams, PMAA and AFTG
6 (collectively "Defendants") pursuant to the patent laws of the United States, Title 35 of the
7 United States Code, with a specific remedy sought based upon the laws authorizing actions for
8 declaratory judgment in the federal courts of the United States, 28 U.S.C. §§ 2201 and 2202.

9 10. This Court has subject matter jurisdiction over this action, which arises under the
10 patent laws of the United States, pursuant to 28 U.S.C. §§ 1331, 1338(a), and under the Federal
11 Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

12 11. Personal jurisdiction and venue are proper in this District pursuant to 28 U.S.C. §§
13 1391 and 1400(b). Upon information and belief, Defendants conduct business in this District,
14 Super Micro resides and does business in this District, and a substantial part of the events that
15 give rise to this action occurred in this District. Upon information and belief, Defendants have
16 availed themselves of the protections of the laws of the State of California; Defendants brought
17 suit in the San Francisco Superior Court as a whistleblower on behalf of the state of California
18 relating to the same defective computers components as are covered by the patents at issue in this
19 case. Upon information and belief, Defendants entered into a licensing deal and consulting
20 arrangement with Hewlett Packard, a company headquartered in the Northern District of
21 California. Upon information and belief, Defendants have and continue to transact business in
22 this District by providing consulting services, negotiating licensing arrangements, and
23 participating in litigation in and directed at companies located in this District.

24 **INTRADISTRICT ASSIGNMENT**

25 12. This action is properly filed in the San Francisco Division of the Northern District
26 of California because Super Micro and Defendants do business within the San Francisco
27 Division.

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EXISTENCE OF AN ACTUAL CONTROVERSY

13. There is an actual controversy within the jurisdiction of this Court under 28 U.S.C. §§ 2201 and 2202.

14. On October 18, 2010, AFTG and PMAA filed a Complaint for Patent Infringement against thirty-five defendants, including Super Micro, in the United States District Court for the District of Wyoming (“the Wyoming Action”). A true and correct copy of the Complaint in the Wyoming Action is attached hereto as *Exhibit A*.

15. In the Wyoming Action, PMAA and AFTG asserted the twelve PMAA and AFTG patents. See Exhibit A at ¶¶ 1-2, 52. The complaint filed in the Wyoming Action alleged that the PMAA and AFTG patents collectively disclose computer hardware and software technologies that detect and address the random destruction or corruption of data in disk drives used by computers, as well as apparatuses, systems and methods for preventing data corruption due to time-gap defects in computer systems. See Exhibit A at ¶ 3-6

16. In the Wyoming Action, PMAA and AFTG also allege that the named defendants have purportedly “infringed various claims of each of the patents-in-suit in violation of 35 U.S.C. § 271 through, among other activities, the manufacture, use, importation, sale and/or offer for sale of computer chips, motherboards, computers and other products, as well as using infringing methods including but not limited to testing of Defendants’ products as a part of the manufacturing process.” See Exhibit A at ¶ 52

17. PMAA and AFTG further allege in the Wyoming Action that “all Defendants have had actual and/or constructive notice of their infringement of the patents-in-suit, including actual pre-complaint notice.” See Exhibit A at ¶ 53; see also ¶¶ 16, 54

18. Super Micro categorically denies Defendants’ allegations that they infringe or have infringed the PMAA patents and AFTG patents, willfully or otherwise.

19. Super Micro further contends that the PMAA patents and AFTG patents are invalid and/or unenforceable.

20. Super Micro is informed and believes, and based thereon alleges, that PMAA and AFTG filed the Wyoming Action as a means of improper forum shopping and to wrongfully

1 divest this Court of jurisdiction to hear the complete case and controversy between the parties.

2 21. On February 25, 2011, the U.S. District Court for District of Wyoming granted
3 Super Micro's motion to dismiss the claims. The court concluded that it could not assert personal
4 jurisdiction over Super Micro in the state of Wyoming. The dispute between Super Micro and
5 Defendants was not, however, resolved by this ruling. A true and correct copy of the Order
6 dismissing Super Micro from the Wyoming Action is attached hereto as *Exhibit B*.

7 22. Based upon the above facts, there is an actual and justiciable controversy within
8 the jurisdiction of this Court under 28 U.S.C. §§ 2201 and 2202.

9 **FIRST CLAIM**

10 **DECLARATORY JUDGMENT REGARDING THE '002 PATENT**

11 23. Super Micro hereby restates and realleges the allegations set forth in paragraphs 1
12 through 26 and incorporate them by reference.

13 24. Dr. Adams is the inventor of the '002 patent, entitled "Defective Floppy Diskette
14 Controller Detection Apparatus and Method." A true and correct copy of the '002 patent is
15 attached hereto as *Exhibit C*.

16 25. Super Micro seeks a judicial determination and declaration that no valid and
17 enforceable claim of the '002 patent is infringed by Super Micro.

18 26. Super Micro seeks a judicial determination and declaration that the '002 patent is
19 invalid because it fails to satisfy the conditions and requirements for patentability as set forth,
20 interalia, in Sections 101, 102, 103, and/or 112 of Title 35 of the United States Code.

21 **SECOND CLAIM**

22 **DECLARATORY JUDGMENT REGARDING THE '222 PATENT**

23 27. Super Micro hereby restates and realleges the allegations set forth in paragraphs 1
24 through 26 and incorporate them by reference.

25 28. Dr. Adams is the inventor of the '222 patent, entitled "Defective Floppy Diskette
26 Controller Detection Apparatus and Method." A true and correct copy of the '222 patent is
27 attached hereto as *Exhibit D*.

28 29. Super Micro seeks a judicial determination and declaration that no valid and

1 enforceable claim of the '222 patent is infringed by Super Micro.

2 30. Super Micro seeks a judicial determination and declaration that the '222 patent is
3 invalid because it fails to satisfy the conditions and requirements for patentability as set forth,
4 interalia, in Sections 101, 102, 103, and/or 112 of Title 35 of the United States Code.

5 **THIRD CLAIM**

6 **DECLARATORY JUDGMENT REGARDING THE '858 PATENT**

7 31. Super Micro hereby restates and realleges the allegations set forth in paragraphs 1
8 through 30 and incorporate them by reference.

9 32. Dr. Adams is the inventor of the '858 patent, entitled "Software-Hardware
10 Welding System." A true and correct copy of the '858 patent is attached hereto as *Exhibit E*.

11 33. Super Micro seeks a judicial determination and declaration that no valid and
12 enforceable claim of the '858 patent is infringed by Super Micro.

13 34. Super Micro seeks a judicial determination and declaration that the '858 patent is
14 invalid because it fails to satisfy the conditions and requirements for patentability as set forth,
15 interalia, in Sections 101, 102, 103, and/or 112 of Title 35 of the United States Code.

16 **FOURTH CLAIM**

17 **DECLARATORY JUDGMENT REGARDING THE '752 PATENT**

18 35. Super Micro hereby restates and realleges the allegations set forth in paragraphs 1
19 through 34 and incorporate them by reference..

20 36. Dr. Adams is the inventor of the '752 patent, entitled "Computerized Product
21 Improvement Apparatus and Method." A true and correct copy of the '752 patent is attached
22 hereto as *Exhibit F*.

23 37. Super Micro seeks a judicial determination and declaration that no valid and
24 enforceable claim of the '752 patent is infringed by Super Micro.

25 38. Super Micro seeks a judicial determination and declaration that the '752 patent is
26 invalid because it fails to satisfy the conditions and requirements for patentability as set forth,
27 interalia, in Sections 101, 102, 103, and/or 112 of Title 35 of the United States Code.

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1 **FIFTH CLAIM**

2 **DECLARATORY JUDGMENT REGARDING THE '475 PATENT**

3 39. Super Micro hereby restates and realleges the allegations set forth in paragraphs 1
4 through 38 and incorporate them by reference.

5 40. Dr. Adams is the inventor of the '475 patent, entitled "Software-Hardware
6 Welding System." A true and correct copy of the '475 patent is attached hereto as *Exhibit G*.

7 41. Super Micro seeks a judicial determination and declaration that no valid and
8 enforceable claim of the '475 patent is infringed by Super Micro.

9 42. Super Micro seeks a judicial determination and declaration that the '475 patent is
10 invalid because it fails to satisfy the conditions and requirements for patentability as set forth,
11 interalia, in Sections 101, 102, 103, and/or 112 of Title 35 of the United States Code.

12 **SIXTH CLAIM**

13 **DECLARATORY JUDGMENT REGARDING THE '601 PATENT**

14 43. Super Micro hereby restates and realleges the allegations set forth in paragraphs 1
15 through 42 and incorporate them by reference.

16 44. Dr. Adams is the inventor of the '601 patent, entitled "Read-Write Function
17 Separation Apparatus and Method." A true and correct copy of the '601 patent is attached hereto
18 as *Exhibit H*.

19 45. Super Micro seeks a judicial determination and declaration that no valid and
20 enforceable claim of the '601 patent is infringed by Super Micro.

21 46. Super Micro seeks a judicial determination and declaration that the '601 patent is
22 invalid because it fails to satisfy the conditions and requirements for patentability as set forth,
23 interalia, in Sections 101,102,103, and/or 112 of Title 35 of the United States Code.

24 **SEVENTH CLAIM**

25 **DECLARATORY JUDGMENT REGARDING THE '181 PATENT**

26 47. Super Micro hereby restates and realleges the allegations set forth in paragraphs 1
27 through 46 and incorporate them by reference..

28 48. Dr. Adams is the inventor of the '181 patent, entitled "Programmatic Time-Gap

1 Defect Detection Apparatus and Method.” A true and correct copy of the ‘181 patent is attached
2 hereto as *Exhibit I*.

3 49. Super Micro seeks a judicial determination and declaration that no valid and
4 enforceable claim of the ‘181 patent is infringed by Super Micro.

5 50. Super Micro seeks a judicial determination and declaration that the ‘181 patent is
6 invalid because it fails to satisfy the conditions and requirements for patentability as set forth,
7 interalia, in Sections 101, 102, 103, and/or 112 of Title 35 of the United States Code.

8 **EIGHTH CLAIM**

9 **DECLARATORY JUDGMENT REGARDING THE ‘203 PATENT**

10 51. Super Micro hereby restates and realleges the allegations set forth in paragraphs 1
11 through 50 and incorporate them by reference.

12 52. Dr. Adams is the inventor of the ‘203 patent, “Programmatic Time-Gap Defect
13 Detection Apparatus and Method.” A true and correct copy of the ‘203 patent is attached hereto
14 as *Exhibit J*.

15 53. Super Micro seeks a judicial determination and declaration that no valid and
16 enforceable claim of the ‘203 patent is infringed by Super Micro.

17 54. Super Micro seeks a judicial determination and declaration that the ‘203 patent is
18 invalid because it fails to satisfy the conditions and requirements for patentability as set forth,
19 interalia, in Sections 101, 102, 103, and/or 112 of Title 35 of the United States Code.

20 **NINTH CLAIM**

21 **DECLARATORY JUDGMENT REGARDING THE ‘207 PATENT**

22 55. Super Micro hereby restates and realleges the allegations set forth in paragraphs 1
23 through 54 and incorporate them by reference.

24 56. Dr. Adams is the inventor of the ‘207 patent, entitled “Optimized-Incrementing,
25 Time- Gap Defect Detection Apparatus and Method.” A true and correct copy of the ‘207 patent
26 is attached hereto as *Exhibit K*.

27 57. Super Micro seeks a judicial determination and declaration that no valid and
28 enforceable claim of the ‘207 patent is infringed by Super Micro.

1 **TWELFTH CLAIM**

2 **DECLARATORY JUDGMENT REGARDING THE '766 PATENT**

3 67. Super Micro hereby restates and realleges the allegations set forth in paragraphs 1
4 through 66 and incorporate them by reference..

5 68. Dr. Adams is the inventor of the '766 patent, entitled "Time-Gap Defect Detection
6 Apparatus and Method." A true and correct copy of the '766 patent is attached hereto as
7 *Exhibit N*.

8 69. Super Micro seeks a judicial determination and declaration that no valid and
9 enforceable claim of the '766 patent is infringed by Super Micro.

10 70. Super Micro seeks a judicial determination and declaration that the '766 patent is
11 invalid because it fails to satisfy the conditions and requirements for patentability as set forth,
12 interalia, in Sections 101, 102, 103, and/or 112 of Title 35 of the United States Code.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Super Micro prays for judgment as follows:

15 1. Declaring that no valid and enforceable claim of the PMAA and AFTG patents is
16 infringed by Super Micro;

17 2. Declaring that Defendants and their officers, employees, agents, alter egos,
18 attorneys, and any persons in active concert or participation with them be restrained and enjoined
19 from further prosecuting or instituting any action against Super Micro claiming that the PMAA
20 and AFTG patents are valid, enforceable, or infringed, or from representing that the products or
21 services of Super Micro infringe the PMAA and AFTG patents;

22 3. A judgment declaring this case exceptional under 35 U.S.C. § 285 and awarding
23 Super Micro their attorneys' fees and costs in connection with this case; and

24 4. Awarding Super Micro such other and further relief as the Court deems meet and
25 proper in the premises.

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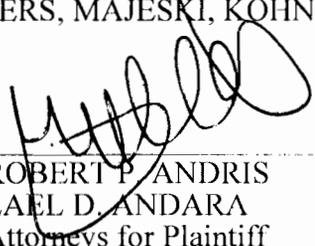
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Dated: March 2, 2011

ROPERS, MAJESKI, KOHN & BENTLEY

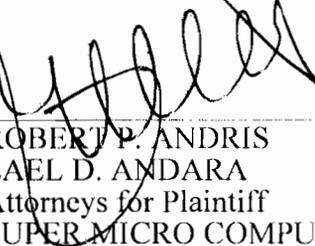
By: 
ROBERT P. ANDRIS
LAEL D. ANDARA
Attorneys for Plaintiff
SUPER MICRO COMPUTER, INC.

DEMAND FOR JURY TRIAL

Super Micro hereby demands a trial by jury on all issues so triable.

Dated: March 2, 2011

ROPERS, MAJESKI KOHN & BENTLEY

By: 
ROBERT P. ANDRIS
LAEL D. ANDARA
Attorneys for Plaintiff
SUPER MICRO COMPUTER, INC.