

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF DELAWARE

SMART MEMORY SOLUTIONS, LLC	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A. No.
	:	
MICRON TECHNOLOGY, INC.	:	JURY TRIAL DEMANDED
and	:	
WINBOND ELECTRONICS	:	
CORPORATION OF AMERICA	:	
	:	
Defendants.	:	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, SMART MEMORY SOLUTIONS, LLC (“SMS”), by and through its attorneys, files this Complaint for patent infringement against Defendants, MICRON TECHNOLOGY, INC. (“Micron”) and WINBOND ELECTRONICS CORPORATION OF AMERICA (“Winbond”), and avers as follows:

I. Parties

1. Plaintiff SMS is a limited liability company organized and existing under the laws of Texas, having its principal place of business at 6136 Frisco Square Boulevard, Frisco, Texas 75034. SMS is the owner, through assignment, of the entire right, title and interest in United States Patent No. 5,416,738, entitled “SINGLE TRANSISTOR FLASH EPROM CELL AND METHOD OF OPERATION” (“the ‘738 Patent”).

2. Defendant Micron is a corporation incorporated under the laws of Delaware, having its principal place of business at 8000 South Federal Way, Boise, ID 83707. Micron’s registered agent for service of process is Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington DE 19808. Upon information and belief, at all times relevant to this

action, Micron and/or its predecessors-in-interest have been engaged in the business of manufacturing, using, marketing, offering for sale and/or selling in the United States, and/or importing into the United States, products and systems with integrated circuit flash memory devices.

3. Defendant Winbond is a corporation incorporated under the laws of Delaware, having its principal place of business at 2727 North First Street, San Jose, CA 95134. Winbond's registered agent for service of process is The Prentice-Hall Corporation System, Inc., 2711 Centerville Road, Suite 400, Wilmington, DE 19808. Upon information and belief, at all times relevant to this action, Winbond has been engaged in the business of manufacturing, using, marketing, offering for sale and/or selling in the United States, and/or importing into the United States, products and systems with integrated circuit flash memory devices.

II. Jurisdiction and Venue

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1338, in that this action arises out of the patent laws of the United States, 35 U.S.C. §§ 1 et seq., alleging infringement by Defendants of the '738 Patent.

5. This Court has personal jurisdiction over Defendants in this district, in that, upon ~~information and belief, Defendants and/or their predecessors-in-interest, directly or through their~~ agents, have regularly conducted business activities in Delaware, and have committed such purposeful acts and/or transactions in this district that they reasonably should know and expect that they could be haled into court in this district as a consequence of such activity; have committed infringing activities in Delaware by manufacturing, using, marketing, offering for sale, selling and/or importing products and systems that infringe the '738 Patent; and/or have placed products and systems that infringe the '738 Patent in the stream of commerce with the

knowledge and intent that they would be used, offered for sale and/or, sold by others in Delaware. Personal jurisdiction over Defendants further exists by virtue of their incorporation under the laws of Delaware.

6. Venue is proper in this district pursuant to 28 U.S.C. §§1391(c) and 1400(b), in that Defendants are subject to personal jurisdiction in this district as of the time of the commencement of this action, and are deemed, therefore, to reside in this district, and further in that Defendants regularly transact business in this district and have committed acts of infringement in this district.

III. Claims for Patent Infringement

7. SMS incorporates by reference and in their entirety the averments contained in paragraphs 1 through 6, inclusive, of this Complaint.

8. The '738 Patent was duly and legally issued by the United States Patent and Trademark Office ("USPTO") on May 16, 1995, naming Ritu Shrivastava as the sole inventor. The '738 Patent was ultimately assigned to SMS. A true and correct copy of the '738 Patent is attached as Exhibit "A" hereto.

9. The '738 Patent claims a single transistor flash EPROM memory cell and its method of operation within a flash EPROM array.

10. The '738 Patent as issued by the USPTO is valid and enforceable.

11. By way of assignment, SMS is the exclusive and current owner of all rights, title and interest in the '738 Patent, and is entitled to enforce the '738 Patent against infringers, including by commencing this action for damages and injunctive relief.

12. Defendants have engaged and continue to engage in acts of infringement under 35 U.S.C. §271, *inter alia*, by manufacturing, using, offering for sale and/or selling, in the United

States, and/or importing into the United States, flash memory devices that embody each element of at least one of the claims of the '738 Patent, including, without limitation, independent claim 1 of the '738 Patent, either literally or by equivalents.

13. More specifically with respect to Micron, and by way of example only, Micron and/or its predecessors-in-interest, have specifically manufactured, used, offered for sale and/or sold in the United States, and/or imported into the United States, and continue to manufacture, use, offer for sale and/or sell in the United States, and/or import into the United States, the Numonyx PF38F3050M0Y3DEA 128 Mbit StrataFlash memory device. The Numonyx PF38F3050M0Y3DEA 128 Mbit StrataFlash memory device directly infringes at least independent claim 1 of the '738 Patent.

14. More specifically with respect to Winbond, and by way of example only, Winbond has manufactured, used, offered for sale and/or sold in the United States, and/or imported into the United States, and continues to manufacture, use, offer for sale and/or sell in the United States, and/or import into the United States, the Winbond Electronics W25X40BVSNI Serial Flash memory device. The Winbond Electronics W25X40BVSNI Serial Flash memory device directly infringes at least independent claim 1 of the '738 Patent.

15. Defendants have caused and will continue to cause SMS substantial damage and irreparable injury by virtue of their infringing activities.

16. SMS is entitled to recover from Defendants the damages it has sustained as a result of Defendants' infringing activities, and to be awarded an injunction enjoining and restraining Defendants from continuing to infringe the '738 Patent.

17. Upon information and belief, Defendants had knowledge of the '738 Patent at the time they engaged in infringing activities, and their infringement of the '738 Patent has been willful and deliberate.

18. Defendants' infringement of the '738 Patent is exceptional, thereby entitling SMS to an award of attorneys' fees and costs pursuant to 35 U.C.S. §285.

19. SMS demands trial by jury on all issues so triable in this action.

IV. Prayer for Relief

WHEREFORE, SMS respectfully requests the following:

- a. That this Court enter judgment in favor of SMS and against Defendants that Defendants have infringed the '738 Patent;
- b. That this Court award a permanent injunction in favor of SMS pursuant to 35 U.S.C. §283, enjoining and restraining Defendants, their officers, directors, agents, servants and employees, licensees, successors and assigns, and those acting in concert and participating with them, and all persons acting on their behalf or within their control, from further infringing the '738 Patent;
- c. That this Court award SMS all damages adequate to compensate SMS for the harm it has suffered as a result of Defendants' infringement of the '738 Patent, together with interest and costs as fixed by the Court, all pursuant to 35 U.S.C. §284;
- d. That this Court award SMS treble damages for willful infringement pursuant to 35 U.S.C. §284;

- e. That this Court declare this case to be exceptional pursuant to 35 U.S.C. §285, and that this Court award SMS reasonable attorneys' fees and all other costs and expenses incurred in maintaining this action; and
- f. That this Court award to SMS such other and further relief as this Court deems to be just and proper.

PROCTOR HEYMAN LLP

/s/ Neal C. Belgam

Neal C. Belgam (#2721)

E-mail: nbelgam@proctorheyman.com

Melissa N. Donimirski (#4701)

E-mail: mdonimirski@proctorheyman.com

300 Delaware Ave., Suite 200

Wilmington, DE 19801

(302) 472-7300

Attorneys for Plaintiff, Smart Memory Solutions,
LLC

OF COUNSEL:

COHEN & GRACE, LLC

Edward C. Flynn

E-mail: eflynn@cohengrace.com

Mark A. Grace

E-mail: mgrace@cohengrace.com

Thomas C. Wettach

E-mail: twettach@cohengrace.com

105 Braunlich Dr., Suite 300

Pittsburgh, PA 15237

(412) 847-0300

Dated: September 14, 2011