

FILED

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

2011 SEP 28 P 4: 24

ARM, LTD., a England and Wales Corporation,
and ARM, INC., a California Corporation
Plaintiffs,

Case No.

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

v.

COMMONWEALTH RESEARCH GROUP, LLC, a
Virginia Corporation,

Defendant.

*1:11 CV 1055
CMH/JFA*

JURY TRIAL DEMANDED

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiffs ARM, Ltd. and ARM, Inc. (collectively "ARM") for their Complaint for Declaratory Judgment against Defendant Commonwealth Research Group, LLC ("CRG"), hereby demand a jury trial and allege as follows:

NATURE OF THE ACTION

1. This is an action for declaratory judgment of non-infringement and invalidity of one United States Patent under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-02, and the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, and for such other relief as the Court deems just and proper.

THE PARTIES

2. ARM, Ltd. and ARM, Inc. are subsidiaries of ARM Holdings plc. ARM, Ltd. is a corporation organized under the laws of the England and Wales, with its principal place of businesses in Cambridge, England.

3. ARM, Inc. is a subsidiary of ARM Holdings plc and a corporation organized under the laws of California, with its principal place of business in San Jose, California.

4. Based on assertions by Defendant CRG, Defendant CRG is a corporation duly organized and existing under the laws of Virginia having a principal place of business at 6931 Arlington Rd, Suite 560, Bethesda, MD. CRG has filed patent law suits in district courts in the United States.

BACKGROUND OF THE DISPUTE

5. This declaratory judgment action arises in connection with a United States patent that CRG purports to own, United States Patent No. 6,026,493 (the “ ‘493 Patent” or the “Asserted Patent”)

6. Since at least March 15, 2010, CRG has been harassing ARM’s customers / licensees with threats of infringement based, at least in part, upon the inclusion of ARM processor cores in the customers’/licensees’ products.

7. ARM is a leading designer of processors used in cellular telephones, handheld computers and numerous other electronic products requiring low power consumption and small size. ARM processor designs are incorporated into the integrated circuits of products sold all over the world.

8. ARM designs processors that can be embedded into and form a component of larger integrated circuits and licenses these processor designs to other companies that make and sell larger integrated circuits, which are commonly referred to as processor “chips.” The processor design supplied by ARM is commonly referred to as the ARM “core” or ARM “processor core.” These cores are frequently known by the generation or “family” of the design. For example, the ARM9 “family” would include the ARM926EJ-S core. A newer ARM11 “family” would include cores such as the ARM1136EJ-S core.

9. To help maintain its competitive position, ARM invests heavily in research and development—over \$100 million in the last year alone.

10. Because ARM’s business depends upon the utilization of its processor cores by its customers which license its processor cores, ARM is sensitive to accusations of patent infringement. ARM’s licensees/customers are concerned by allegations that their current

and/or future products incorporating ARM processor cores might infringe a patent. Thus, it is important for ARM to address any cloud of uncertainty created by allegations of infringement from CRG.

11. This action arises out of threats or actions taken by CRG to ARM's customers related to products and/or services provided by ARM to its customers.

12. ARM seeks a declaration that (i) that its products and processor cores do not directly or indirectly infringe the claims of the Asserted Patent; (ii) that ARM's processor cores, when incorporated into the products of ARM's customers/licensees, do not directly or indirectly infringe any claims of the Asserted Patent; and/or (iii) that the claims of the Asserted Patent are invalid.

13. The ARM customers/licensees that CRG has threatened include at least Mindspeed Technologies, Inc. (the "Threatened Customer").

14. Commonwealth previously sued other ARM licensees. *See Commonwealth Research Group LLC v. NXP, et al*, Case No. 1:10-cv-00206-PD (D. Del) ("*Commonwealth I*").

15. CRG recently filed a lawsuit asserting patent infringement of the Asserted Patent against a number of companies including the Threatened Customer. *See Commonwealth Research Group, LLC v. Microchip Technology Incorporated, et al*, Case No. 1:11-cv-00655 (D. Del) ("*Commonwealth II*").

16. According to the Complaint in *Commonwealth II*, CRG is a Virginia corporation.

17. According to the Commonwealth of Virginia State Corporation Commission website, CRG may be served with process at CT Corporation System, 4701 Cox. Rd, Suite 301, Glen Allen, VA 23060 in Henrico County.

18. In conjunction with *Commonwealth II*, CRG provided to at least the Threatened Customer claim charts that purported to compare claims of the Asserted Patent against processor cores supplied by ARM, including the ARM Cortex A9 core.

19. ARM did not use any technology in the Asserted Patent in the design, development or implementation of ARM's products. ARM has not infringed and does not infringe any claims of the Asserted Patent. Indeed, CRG distorts the Asserted Patent by applying it in a manner that is not supported by and is contrary to the patents' claims, disclosures and histories, in an improper scheme to extract royalties from ARM and/or ARM's customers/licensees to which CRG plainly is not entitled.

20. ARM has certain obligations to the Threatened Customer which include obligations to indemnify its customers under certain conditions for threats of patent infringement liability which implicate products, including processor cores, supplied by ARM.

21. By making accusations of patent infringement against products of the Threatened Customer which include ARM processor cores, CRG has made at least an implicit assertion that ARM has indirectly infringed one or more claims of the Asserted Patent.

22. CRG's threats and actions against ARM's customers, under all the circumstances, show that there is a substantial controversy, between ARM and CRG having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

JURISDICTION AND VENUE

23. This Court has subject matter over these Claims pursuant to 28 U.S.C. §§ 1331, 1338, and 2201 and the patent laws of the United States, 35 U. S. C. § 1, *et seq.*

24. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), (c), (d), and 1400(b).

25. CRG is subject to the personal jurisdiction of this Court because, among other reasons, it has purposefully directed activities to this District, and it is a Virginia Corporation.

COUNT 1

DECLARATORY JUDGMENT OF NONINFRINGEMENT OF THE ASSERTED PATENT

26. ARM incorporates and realleges the allegations of paragraphs 1-25 above as if set forth fully herein.

27. A valid and justiciable controversy has arisen and exists between ARM and CRG regarding the Asserted Patent as a result of CRG's assertions of infringement by ARM's customers related to ARM processor cores. ARM desires a judicial determination and declaration of the respective rights of the parties regarding the Asserted Patent.

28. ARM has not directly or indirectly infringed any claim of the Asserted Patent.

29. ARM's customers/licensees, to the extent they have incorporated ARM's processor cores into their products, have not directly or indirectly infringed any claim of the Asserted Patent.

COUNT 2

DECLARATORY JUDGMENT OF INVALIDITY OF THE ASSERTED PATENT

30. ARM incorporates and realleges the allegations of paragraphs 1-29 above as if set forth fully herein.

31. A valid and justiciable controversy has arisen and exists between ARM and CRG regarding the Asserted Patent as a result of CRG's assertions of infringement by ARM's customers related to ARM processor cores. ARM desires a judicial determination and declaration of the respective rights of the parties regarding the Asserted Patent.


32. Each claim of the Asserted Patent that CRG asserts is infringed either by or through the use of ARM processor cores is invalid under one or more provisions of 35 U. S. C. §§ 102, 103, and 112.

REQUEST FOR RELIEF

WHEREFORE, ARM requests that this Court:

- a. declare that the claims of the Asserted Patent are invalid;
- b. declare that ARM has not infringed and is not directly or indirectly infringing any claim of the Asserted Patent;
- c. declare that ARM's customers/licensees have not infringed and are not directly or indirectly infringing any claim of the Asserted Patent insofar as they include ARM processor cores in their products;
- d. declare this case to be exceptional under 35 U.S.C. § 285 and award ARM is attorneys' fees, costs, and expenses in connection with this action; and
- e. award ARM such other and further relief as to which it may be entitled.

Dated: September 28, 2011



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