

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SEMCON TECH, LLC

Plaintiff,

v.

POWERCHIP TECHNOLOGY
CORPORATION, REXCHIP
ELECTRONICS CORPORATION,
ELPIDA MEMORY, INC., AND ELPIDA
MEMORY (USA) INC.,

Defendants.

C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.*, in which Plaintiff Semcon Tech, LLC makes the following allegations against Defendants Powerchip Technology Corporation, Rexchip Electronics Corporation, Elpida Memory, Inc., and Elpida Memory (USA) Inc. (collectively, “Defendants”):

PARTIES

1. Plaintiff Semcon Tech, LLC (“Semcon”) is a Delaware limited liability company.
2. On information and belief, Defendant Powerchip Technology Corporation (“Powerchip”) is a company organized under the laws of Taiwan that maintains its principal place of business at No. 12, Li-Hsin 1st Road, Hsinchu Science Park, Hsinchu, Taiwan. On information and belief, Powerchip manufactures and sells all or substantially all of its output of DRAM semiconductor wafers to Elpida Memory, Inc.

3. On information and belief, Defendant Rexchip Electronics Corporation (“Rexchip”) is a company organized under the laws of Taiwan that maintains its principal place of business at No. 429-1, Sanfong Rd., Houli District, Taichung City, Central Taiwan Science Park, Taiwan. On information and belief, Rexchip is a joint venture owned by Powerchip and Elpida Memory, Inc. On information and belief, Rexchip manufactures and sells all or substantially all of its output of DRAM semiconductor wafers to Elpida Memory, Inc.

4. On information and belief, Defendant Elpida Memory, Inc. (“Elpida Japan”) is a company organized under the laws of Japan that maintains its principal place of business at Sumitomo Seimei Yaesu Bldg. 3F, 2-1 Yaesu 2-chome, Chuo-ku, Tokyo 104-0028, Japan. On information and belief, Elpida Japan manufactures and sells DRAM semiconductor wafers, including those manufactured by Powerchip and Rexchip, to customers in the United States through its wholly-owned subsidiary Elpida Memory (USA) Inc.

5. On information and belief, Defendant Elpida Memory (USA) Inc. (“Elpida USA”) is a Delaware corporation with its principal place of business at 1175 Sonora Court, Sunnyvale, CA 94086. On information and belief, Elpida USA can be served through its registered agent, National Registered Agents, Inc., 160 Greentree Dr Ste 101, Dover, DE 19904. On information and belief, Elpida USA is a wholly-owned subsidiary of Elpida Japan. On information and belief, Elpida USA sells and offers for sale DRAM semiconductor wafers manufactured by or on behalf of Elpida Japan, including those manufactured by Powerchip and Rexchip, in the United States.

JURISDICTION AND VENUE

6. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. Defendants are subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Delaware Long Arm Statute, due to having availed themselves of the rights and benefits of Delaware due to their substantial business in this forum, including: (i) having offered for sale and/or sold products made by an infringing process in Delaware and in this District, having purposely imported/shipped or caused to be imported/shipped products made by an infringing process into Delaware and this District through established distribution channels, and/or having committed acts in this State and District that are the subject of the count set forth herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Delaware and in this District. Defendant Elpida Memory (USA) has further availed itself of the rights and benefits of Delaware by incorporating under Delaware law.

8. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). Defendant Elpida Memory (USA) is incorporated in this District, and on information and belief, all Defendants have transacted business in this district and have committed acts of patent infringement in this District.

COUNT I **INFRINGEMENT OF U.S. PATENT NO. 7,156,717**

9. Plaintiff Semcon realleges and incorporates by reference paragraphs 1-8 above, as if fully set forth herein.

10. Plaintiff Semcon is the owner by assignment of United States Patent No. 7,156,717 (“the ‘717 Patent”) titled “[In] Situ Finishing Aid Control.” The ‘717 Patent was duly and legally issued by the United States Patent and Trademark Office on January 2, 2007. A true and correct copy of the ‘717 Patent is included as Exhibit A.

11. Defendants make, use, sell, offer for sale, and/or import into the United States integrated circuits, and in particular, DRAM semiconductor wafers. Defendants, alone and/or in conjunction with their corporate affiliates, fabricate DRAM semiconductor wafers overseas, including in Hsinchu, Taiwan, Taichung, Taiwan, and Hiroshima, Japan.

12. At least some of the DRAM semiconductor wafers made, used, sold, offered for sale, and/or imported into the United States by Defendants are fabricated using, in part, a process known as chemical-mechanical polishing (“CMP”) performed with the use of Applied Materials Reflexion LK and/or GT CMP systems.

13. On information and belief, Defendants have sold and continue to sell and/or offer for sale DRAM semiconductor wafers fabricated by Defendants and/or Defendants’ corporate affiliates using, in part, CMP performed with the use of Applied Materials Reflexion LK and/or GT CMP systems to customers in the United States.

14. On information and belief, Defendants have infringed and continue to infringe the ‘717 Patent by, among other things, making, using, offering for sale, selling and/or importing into the United States integrated circuits made by a process patented under the ‘717 Patent. Such integrated circuits include, by way of example and without limitation, integrated circuits fabricated using, in part, CMP performed with the use of Applied Materials Reflexion LK and/or GT CMP systems through a process covered by

one or more claims of the ‘717 Patent, including but not limited to claim 1. By making, using, offering for sale, selling and/or importing into the United States integrated circuits made by a process patented under the ‘717 Patent, Defendants have injured Semcon and are liable to Semcon for infringement of the ‘717 Patent pursuant to 35 U.S.C. § 271(g).

15. As a result of Defendants’ infringement of the ‘717 Patent, Plaintiff Semcon is entitled to monetary damages in an amount adequate to compensate for Defendants’ infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendants, together with interest and costs as fixed by the Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Semcon respectfully requests that this Court enter:

- a. A judgment in favor of Plaintiff that Defendants have infringed, either literally and/or under the doctrine of equivalents, the ‘717 patent;
- b. A judgment and order requiring Defendants to pay Plaintiff its damages, costs, expenses, and pre-judgment and post-judgment interest for Defendants’ infringement of the ‘717 patent as provided under 35 U.S.C. § 284; and
- c. A judgment and order requiring Defendants to provide an accounting and to pay supplemental damages to Semcon, including without limitation, prejudgment and post-judgment interest; and
- d. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

April 18, 2013

BAYARD, P.A.

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