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ASUSTEK COMPUTER INC. and  
ASUS COMPUTER INTERNATIONAL  
[See signature page for additional counsel]

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

U.S. Ethernet Innovations LLC,  
  
Plaintiff,  
  
v.

Acer, Inc.; Acer America Corporation; Apple,  
Inc.; ASUS Computer International;  
ASUSTeK Computer Inc.; Dell Inc.; Fujitsu  
Ltd.; Fujitsu America, Inc.; Gateway, Inc.;  
Hewlett Packard Co.; HP Development  
Company LLC; Sony Corporation; Sony  
Corporation of America; Sony Electronics  
Inc.; Toshiba Corporation; Toshiba America,  
Inc.; and Toshiba America Information  
Systems, Inc.,

Defendants

Intel Corp., Nvidia Corp., Marvell  
Semiconductor, Inc., Atheros  
Communications, Inc. and Broadcom Corp.,

Intervenors

Case No. 4:10cv03724-CW

**JURY TRIAL DEMANDED**

[Related Cases: 4:10cv05254-CW and  
4:10cv03481-CW]

**ASUSTeK COMPUTER INC. AND ASUS  
COMPUTER INTERNATIONAL'S THIRD-  
PARTY COMPLAINT AGAINST SILICON  
INTEGRATED SYSTEMS CORP.**

ASUSTeK Computer Inc. and ASUS  
Computer International,  
  
Third-Party Plaintiffs,  
  
v.  
  
Silicon Integrated Systems Corp.,  
  
Third-Party Defendants.

### **NATURE OF THE ACTION**

1. This is a complaint by ASUSTeK Computer Inc. and ASUS Computer International (collectively “ASUS”) against Silicon Integrated Systems Corp. (“SiS”) pursuant to FED. R. CIV. P. 14 for breach of warranties and obligations to indemnify, defend, and hold harmless for any and all claims by U.S. Ethernet Innovations, LLC (“USEI”) of infringement of U.S. Patent No. 5,307,459 (the “459 patent”), U.S. Patent No. 5,434,872 (the “872 patent”), U.S. Patent No. 5,732,094 (the “094 patent”), and U.S. Patent No. 5,299,313 (the “313 patent”) (collectively, “the USEI Asserted Patents”) asserted, *inter alia*, in this Civil Action No. 3:10-cv-03724.

### **THE PARTIES**

2. ASUSTeK Computer Inc. (“ASUSTeK”) is a Taiwanese company with a principal place of business at No. 15, Li-Te Road, Peitou District, Taipei 112, Taiwan R.O.C.

3. Asus Computer International (“ACI”) is a California company with a principal place of business at 800 Corporate Way, Fremont, California 94539. ACI is a wholly owned subsidiary of ASUSTeK.

4. Upon information and belief, USEI is a Texas limited liability corporation with a principal place of business at 719 West Front Street, Suite 122, Tyler, Texas 75702.

5. Upon information and belief, SiS is a Taiwanese company with a principal place of business at No.180, Sec. 2, Gongdao 5th Rd., Hsinchu City 30070, Taiwan R.O.C.

1           6.       Upon information and belief, SiS is registered in California to do business, with  
2 its offices located at 838 N. Hillview Dr., Milpitas, CA 95035 and its agent for service of  
3 process, Ms. Isabel Chiu, located at the same address.

4                                   **JURISDICTION AND VENUE**

5           7.       USEI brought this Civil Action No. 3:10-cv-03724 against ASUS, asserting  
6 liability for infringing, inter alia, the USEI Asserted Patents, which liability has been denied by  
7 ASUS.

8           8.       ASUS's claims against SiS involve a common nucleus of operative facts or the  
9 same transaction and occurrence as the claims asserted by USEI against ASUS. This Court has  
10 subject matter jurisdiction over these claims under 28 U.S.C. § 1367.

11          9.       SiS is subject to this Court's personal jurisdiction because SiS has established  
12 minimum contacts with the forum. Specifically, SiS has made, used, sold, and/or imported  
13 technology in products that are accused by USEI of infringing the USEI Asserted Patents.  
14 Accordingly, there are products accessible in California, including those in this Judicial District,  
15 which contain such products of SiS. The exercise of jurisdiction over SiS in this District would  
16 not offend traditional notions of fair play and substantial justice.

17          10.      SiS is subject to this Court's personal jurisdiction under Fed. R. Civ. Proc.  
18 4(k)(1)(A) because SiS is subject to the general personal jurisdiction of California; SiS's ties  
19 with the State of California and with the forum are continuous and systematic.

20          11.      Venue is proper in this District under 28 U.S.C. § 1391.

21                                   **STATEMENT OF FACTS**

22          12.      ASUS entered into an agreement ("the Indemnity Agreement") with SiS,  
23 contractually obligating SiS to defend and hold harmless ASUS if ASUS is sued due to alleged  
24 intellectual property infringement by SiS products supplied to ASUS.

25          13.      USEI filed its Complaint for Patent Infringement on October 9, 2009, alleging  
26 infringement of the '459, '872, '094, and '313 patents and naming ASUSTeK and ACI as two  
27 of seventeen defendants in the suit. USEI filed its First Amended Complaint for Patent  
28 Infringement on May 4, 2010 ("Amended Complaint"), maintaining its allegations of

1 infringement against ASUSTeK and ACI for infringement of the '459, '872, '094, and '313  
2 patents.

3 14. In paragraph 24 of the Amended Complaint, USEI alleges that ASUSTeK and  
4 ACI "import, make, use, offer for sale, and/or sell certain products and devices which embody  
5 one or more claims of the Patents-in-Suit."

6 15. In paragraph 33 of the Amended Complaint, USEI alleges that ASUSTeK and  
7 ACI "infringed and continue to infringe one or more claims of the '459 Patent, directly,  
8 contributorily, and/or by inducement, by importing, making, using, offering for sale, and/or  
9 selling products and devices which embody the patented invention."

10 16. In paragraph 42 of the Amended Complaint, USEI alleges that ASUSTeK and  
11 ACI "infringed and continue to infringe one or more claims of the '872 Patent, directly,  
12 contributorily, and/or by inducement, by importing, making, using, offering for sale, and/or  
13 selling products and devices which embody the patented invention."

14 17. In paragraph 51 of the Amended Complaint, USEI alleges that ASUSTeK and  
15 ACI "infringed and continue to infringe one or more claims of the '094 Patent, directly,  
16 contributorily, and/or by inducement, by importing, making, using, offering for sale, and/or  
17 selling products and devices which embody the patented invention."

18 18. In paragraph 60 of the Amended Complaint, USEI alleges that ASUSTeK and  
19 ACI "infringed and continue to infringe one or more claims of the '313 Patent, directly,  
20 contributorily, and/or by inducement, by importing, making, using, offering for sale, and/or  
21 selling products and devices which embody the patented invention."

22 19. USEI identified SiS products incorporated in the allegedly infringing products in  
23 its amended "Patent Local Rule 3.1 Claim Chart" for the '459 patent ("Claim Chart 36"), the  
24 '872 patent ("Claim Chart 36"), the '094 patent ("Claim Chart 37"), and the '313 patent ("Claim  
25 Chart 38").

26 20. On information and belief, the products identified by USEI incorporate SiS  
27 products to provide the functionality accused by USEI of infringing the '459, '872, '094, and  
28 '313 patents.



**COUNT 2 - BREACH OF WARRANTY OF TITLE AND AGAINST INFRINGEMENT**

31. ASUS hereby incorporates by reference, as if fully set forth herein, the allegations in paragraphs 1–30, supra.

32. SiS sells and has sold to ASUS products that are now accused by USEI of infringing the USEI Asserted Patents.

33. SiS is a merchant regularly dealing in products of the kind accused by USEI of infringing the USEI Asserted Patents.

34. SiS warranted that the products delivered to ASUS would be free of any rightful claim of any third person by way of infringement or the like.

35. SiS has breached its warranty of title and against infringement for the products sold by SiS to ASUS and is liable for that breach to ASUS.

**DEMAND FOR JURY TRIAL**

36. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and Local Rule 3-6, ASUS demands a trial by jury of this action.

**PRAYER FOR RELIEF**

WHEREFORE, Third-Party Plaintiff ASUS prays for a final judgment against SiS and respectfully requests the following relief:

(a) A judgment that SiS is liable to ASUS to indemnify, defend, and hold harmless ASUS from and against any claims or demands of USEI arising from infringement of the ‘459, ‘872, ‘094, or ‘313 patents;

(b) A judgment that SiS has breached its warranty of title and non-infringement for the SiS products sold by SiS to ASUS, and now accused of infringement, and is liable for that breach to ASUS;

(c) A judgment that SiS has breached the Indemnity Agreement for the SiS products accused of infringement, sold by SiS to ASUS, and is liable for that breach to ASUS;

(d) A judgment under 35 U.S.C. § 285 awarding ASUS its costs and reasonable attorney’s fees expended in defending and maintaining the underlying USEI-initiated action;

1 (e) A judgment awarding ASUS its costs and reasonable attorney's fees expended in  
2 bringing and prosecuting this third-party action;

3 (f) An order awarding ASUS all sums that may be adjudicated against ASUS in  
4 favor of USEI in the action for patent infringement, including without limitation, any interest  
5 thereon as well as fees, costs, or any other sum; and

6 A judgment awarding ASUS such other and further relief as this Court may deem just and  
7 proper.

8 Dated: January 17, 2013

Respectfully submitted,

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By: /s/ Kyle D. Chen

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