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15 Attorneys for Defendants and Counterclaimants SAMSUNG ELECTRONICS CO., LTD.,
 SAMSUNG SEMICONDUCTOR, INC., SAMSUNG AUSTIN SEMICONDUCTOR, LLC,
 16 SAMSUNG ELECTRONICS AMERICA, INC., and SAMSUNG TELECOMMUNICATIONS
 17 AMERICA, LLC

18 UNITED STATES DISTRICT COURT
 19 NORTHERN DISTRICT OF CALIFORNIA
 20 SAN FRANCISCO DIVISION

21
 22 ADVANCED MICRO DEVICES, INC., et al.,
 23 Plaintiffs and Counterdefendants,
 24 v.
 25 SAMSUNG ELECTRONICS CO., LTD., et al.,
 26 Defendants and Counterclaimants.
 27

CASE NO. 3:08-CV-0986-SI

**ANSWER AND COUNTERCLAIMS OF
 DEFENDANT AND
 COUNTERCLAIMANT SAMSUNG
 ELECTRONICS AMERICA, INC.
 DEMAND FOR JURY TRIAL**

1 Defendant and Counterclaimant Samsung Electronics America, Inc. (“SEA”), by and
2 through its counsel, answers the First Amended Complaint for Patent Infringement (“Complaint”)
3 filed by Plaintiffs and Counterdefendants Advanced Micro Devices, Inc. (“AMD”) and ATI
4 Technologies, ULC (“ATI”) (collectively, “Plaintiffs and Counterdefendants”) as follows:

5 **INTRODUCTION**

6 SEA admits that Plaintiffs and Counterdefendants have filed this suit for patent
7 infringement against SEA and six related entities, asserting U.S. Patent No. 5,545,592 (“the ‘592
8 patent”), U.S. Patent No. 4,737,830 (“the ‘830 patent”), U.S. Patent No. 5,248,893 (“the ‘893
9 patent”), U.S. Patent No. 5,559,990 (“the ‘990 patent”), U.S. Patent No. 5,377,200 (“the ‘200
10 patent”), U.S. Patent No. 5,623,434 (“the ‘434 patent”), and U.S. Patent No. 6,784,879 (“the ‘879
11 patent”) (collectively, “the AMD patents”). SEA is without knowledge or information sufficient to
12 form a belief as to the ownership of the AMD patents and on that basis, denies the allegation as to
13 ownership. Plaintiffs and Counterdefendants’ allegation regarding what the AMD patents
14 “generally cover” states a legal conclusion to which SEA is not required to respond. Except as
15 expressly admitted, SEA denies the allegations in the Introduction.

16 **THE PARTIES**

- 17 1. SEA admits the allegations of paragraph 1 of the Complaint.
18 2. SEA admits the allegations of paragraph 2 of the Complaint.
19 3. SEA admits the allegations of paragraph 3 of the Complaint.
20 4. SEA denies that Samsung Semiconductor, Inc. (“SSI”) is a subsidiary of SEC; SSI is
21 a subsidiary of SEA. SEA admits the remaining allegations of paragraph 4 of the Complaint.
22 5. SEA admits the allegations of paragraph 5 of the Complaint.
23 6. SEA admits the allegations of paragraph 6 of the Complaint.
24 7. The ZIP code for 1301 East Lookout Drive, Richardson, Texas is 75082. SEA
25 denies that Samsung Telecommunications America, LLC (“STA”) is a subsidiary of SEC; STA is a
26 subsidiary of SEA. SEA admits the remaining allegations of paragraph 7 of the Complaint.
27 8. SEA admits the allegations of paragraph 8 of the Complaint.
28 9. SEA admits the allegations of paragraph 9 of the Complaint.

1 **JURISDICTION**

2 10. SEA admits that Plaintiffs and Counterdefendants purport to bring an action for
3 patent infringement. The remaining allegations of paragraph 10 of the Complaint state legal
4 conclusions, and SEA is not required to, and does not, admit or deny such allegations.

5 11. SEA admits that SSI maintains a place of business at 3655 North First Street, San
6 Jose, California 95134. SEA denies that Defendants and Counterclaimants have committed acts of
7 patent infringement. To the extent that the remaining allegations of paragraph 11 of the Complaint
8 state legal conclusions, SEA is not required to, and does not, admit or deny such allegations. To the
9 extent not expressly admitted, SEA denies the allegations of paragraph 11 of the Complaint.

10 **VENUE**

11 12. SEA denies that SSI has committed acts of patent infringement. SEA admits that
12 SSI has a place of business in this District. To the extent that the remaining allegations of
13 paragraph 12 of the Complaint state legal conclusions, SEA is not required to, and does not, admit
14 or deny such allegations. To the extent not expressly admitted, SEA denies the allegations of
15 paragraph 12 of the Complaint.

16 **INTRADISTRICT ASSIGNMENT**

17 13. SEA admits that Plaintiffs and Counterdefendants purport to bring an action for
18 patent infringement. The remaining allegations of paragraph 13 of the Complaint state a legal
19 conclusion which SEA is not required to, and does not, admit or deny.

20 **FACTUAL BACKGROUND**

21 14. SEA is without knowledge or information to form a belief as to the truth of the
22 allegations of paragraph 14 of the Complaint and, on that basis, denies them.

23 (a) SEA denies that the '592 patent was duly and legally issued. SEA admits that the
24 face of the '592 patent indicates that it issued from an application filed on February 24, 1995 and
25 that the purported inventor listed on the face of the patent is John A. Iacononi. To the extent the
26 remaining allegations of paragraph 14(a) of the Complaint state legal conclusions, SEA is not
27 required to, and does not, admit or deny such allegations. To the extent not expressly admitted,
28 SEA denies the allegations of paragraph 14(a) of the Complaint.

1 (b) SEA denies that the '830 patent was duly and legally issued. SEA admits that the
2 face of the '830 patent indicates that it issued from an application filed on January 8, 1986 and that
3 one of the purported inventors listed on the face of the patent is Bharat D. Patel. To the extent the
4 remaining allegations of paragraph 14(b) of the Complaint state legal conclusions, SEA is not
5 required to, and does not, admit or deny such allegations. To the extent not expressly admitted,
6 SEA denies the allegations of paragraph 14(b) of the Complaint.

7 (c) SEA denies that the '893 patent was duly and legally issued. SEA admits that the
8 face of the '893 patent indicates that it issued from an application filed on January 5, 1993 and that
9 the purported inventor listed on the face of the patent is Shinichi Sakamoto. To the extent the
10 remaining allegations of paragraph 14(c) of the Complaint state legal conclusions, SEA is not
11 required to, and does not, admit or deny such allegations. To the extent not expressly admitted,
12 SEA denies the allegations of paragraph 14(c) of the Complaint.

13 (d) SEA denies that the '990 patent was duly and legally issued. SEA admits that the
14 face of the '990 patent indicates that it issued from an application filed on September 24, 1996 and
15 that one of the purported inventors listed on the face of the patent is Pearl P. Cheng. To the extent
16 the remaining allegations of paragraph 14(d) of the Complaint state legal conclusions, SEA is not
17 required to, and does not, admit or deny such allegations. To the extent not expressly admitted,
18 SEA denies the allegations of paragraph 14(d) of the Complaint.

19 (e) SEA denies that the '200 patent was duly and legally issued. SEA admits that the
20 face of the '200 patent indicates that it issued from an application filed on August 27, 1992 and that
21 the purported inventor listed on the face of the patent is Michael D. Pedneau. To the extent the
22 remaining allegations of paragraph 14(e) of the Complaint state legal conclusions, SEA is not
23 required to, and does not, admit or deny such allegations. To the extent not expressly admitted,
24 SEA denies the allegations of paragraph 14(e) of the Complaint.

25 (f) SEA denies that the '434 patent was duly and legally issued. SEA admits that the
26 face of the '434 patent indicates that it issued from an application filed on July 27, 1994, and that
27 the purported inventor listed on the face of the patent is Stephen C. Purcell. To the extend the
28 remaining allegations of paragraph 14(f) of the Complaint state legal conclusions, SEC is not

1 required to, and does not, admit or deny such allegations. To the extent not expressly admitted,
2 SEA denies the allegations of paragraph 14(f) of the Complaint.

3 (g) SEA denies that the '879 patent was duly and legally issued. SEA admits that the
4 face of the '879 patent indicates that it issued from an application filed on July 14, 1997 and that
5 the purported inventor listed on the face of the patent is Stephen Jonathan Orr. To the extent the
6 remaining allegations of paragraph 14(g) of the Complaint state legal conclusions, SEA is not
7 required to, and does not, admit or deny such allegations. To the extent not expressly admitted,
8 SEA denies the allegations of paragraph 14(g) of the Complaint.

9 15. SEA denies the allegations of paragraph 15 of the Complaint.

10 16. To the extent the allegations of paragraph 16 of the Complaint state legal
11 conclusions, SEA is not required to, and does not, admit or deny such allegations. SEA denies that
12 SEA had prior actual notice of the '592 patent no later than April 2006. SEA denies that SEA had
13 prior actual notice of the '830 patent no later than March 31, 2003. SEA is without knowledge or
14 information sufficient to form a belief as to when Defendants other than SEA received actual notice
15 of the AMD patents and on that basis, denies the allegations as to actual notice of the AMD patents
16 to those other Defendants.

17 17. SEA denies the allegations of paragraph 17 of the Complaint and each of its
18 subparts.

19 18. SEA denies the allegations of paragraph 18 of the Complaint.

20 **RESPONSE TO FIRST CLAIM FOR RELIEF**

21 19. SEA incorporates by reference its above responses to paragraphs 1 through 18 of the
22 Complaint as if specifically set forth herein.

23 20. SEA denies the allegations of paragraph 20 of the Complaint.

24 21. SEA denies the allegations of paragraph 21 of the Complaint.

25 22. SEA denies that SEA had actual notice of the '592 patent since at least as early as
26 April 2006. SEA denies that AMD presented SEA with a detailed PowerPoint presentation
27 outlining how Defendants' products specifically infringed claims of the '592 patent. SEA denies
28 that Plaintiffs demanded that SEA license the '592 patent. SEA is without knowledge or

1 information sufficient to form a belief as to when Defendants other than SEA received actual notice
2 of the '592 patent and on that basis, denies the allegations as to actual notice of the '592 patent to
3 those other Defendants.

4 **RESPONSE TO SECOND CLAIM FOR RELIEF**

5 23. SEA incorporates by reference its above responses to paragraphs 1 through 22 of the
6 Complaint as if specifically set forth herein.

7 24. SEA denies the allegations of paragraph 24 of the Complaint.

8 25. SEA denies the allegations of paragraph 25 of the Complaint.

9 26. SEA denies that SEA had actual notice of the '830 patent since at least as early as
10 March 31, 2003. SEA denies that AMD presented SEA with a detailed PowerPoint presentation
11 outlining how Defendants' products specifically infringed claims of the '830 patent. SEA denies
12 that Plaintiffs demanded that SEA license the '830 patent. SEA is without knowledge or
13 information sufficient to form a belief as to when Defendants other than SEA received actual notice
14 of the '830 patent and on that basis, denies the allegations as to actual notice of the '830 patent to
15 those other Defendants.

16 **RESPONSE TO THIRD CLAIM FOR RELIEF**

17 27. SEA incorporates by reference its above responses to paragraphs 1 through 26 of the
18 Complaint as if specifically set forth herein.

19 28. SEA denies the allegations of paragraph 28 of the Complaint.

20 29. SEA denies the allegations of paragraph 29 of the Complaint.

21 **RESPONSE TO FOURTH CLAIM FOR RELIEF**

22 30. SEA incorporates by reference its above responses to paragraphs 1 through 29 of the
23 Complaint as if specifically set forth herein.

24 31. SEA denies the allegations of paragraph 31 of the Complaint.

25 32. SEA denies the allegations of paragraph 32 of the Complaint.

26 **RESPONSE TO FIFTH CLAIM FOR RELIEF**

27 33. SEA incorporates by reference its above responses to paragraphs 1 through 32 of the
28 Complaint as if specifically set forth herein.

1 34. SEA denies the allegations of paragraph 34 of the Complaint.

2 35. SEA denies the allegations of paragraph 35 of the Complaint.

3 **RESPONSE TO SIXTH CLAIM FOR RELIEF**

4 36. SEA incorporates by reference its above responses to paragraphs 1 through 35 of the
5 Complaint as if specifically set forth herein.

6 37. SEA denies the allegations of paragraph 37 of the Complaint.

7 38. SEA denies the allegations of paragraph 38 of the Complaint.

8 **RESPONSE TO SEVENTH CLAIM FOR RELIEF**

9 39. SEA incorporates by reference its above responses to paragraphs 1 through 38 of the
10 Complaint as if specifically set forth herein.

11 40. SEA denies the allegations of paragraph 40 of the Complaint.

12 41. SEA denies the allegations of paragraph 41 of the Complaint.

13 **RESPONSE TO PRAYER FOR RELIEF**

14 SEA denies that Plaintiffs and Counterdefendants are entitled to any relief whatsoever from
15 SEA , either as prayed or otherwise.

16 **AFFIRMATIVE DEFENSES**

17 42. By alleging the matters set forth below as affirmative defenses, SEA does not
18 thereby allege or admit that SEA has the burden of proof with respect to any of said matters.

19 43. For its further and separate defense to Plaintiffs and Counterdefendants' Claims and
20 each purported cause of action therein, SEA alleges as follows:

21 **FIRST AFFIRMATIVE DEFENSE**

22 **(Non-Infringement of the '592 patent)**

23 44. SEA has not and is not infringing, contributing to the infringement of, and/or
24 inducing infringement of any valid, enforceable claim of the '592 patent.

25 **SECOND AFFIRMATIVE DEFENSE**

26 **(Non-Infringement of the '830 patent)**

27 45. SEA has not and is not infringing, contributing to the infringement of, and/or
28 inducing infringement of any valid, enforceable claim of the '830 patent.

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THIRD AFFIRMATIVE DEFENSE

(Non-Infringement of the '893 patent)

46. SEA has not and is not infringing, contributing to the infringement of, and/or inducing infringement of any valid, enforceable claim of the '893 patent.

FOURTH AFFIRMATIVE DEFENSE

(Non-Infringement of the '990 patent)

47. SEA has not and is not infringing, contributing to the infringement of, and/or inducing infringement of any valid, enforceable claim of the '990 patent.

FIFTH AFFIRMATIVE DEFENSE

(Non-Infringement of the '200 patent)

48. SEA has not and is not infringing, contributing to the infringement of, and/or inducing infringement of any valid, enforceable claim of the '200 patent.

SIXTH AFFIRMATIVE DEFENSE

(Non-Infringement of the '434 patent)

49. SEA has not and is not infringing, contributing to the infringement of, and/or inducing infringement of any valid, enforceable claim of the '434 patent.

SEVENTH AFFIRMATIVE DEFENSE

(Non-Infringement of the '879 patent)

50. SEA has not and is not infringing, contributing to the infringement of, and/or inducing infringement of any valid, enforceable claim of the '879 patent.

EIGHTH AFFIRMATIVE DEFENSE

(Invalidity of the '592 patent)

51. Each claim of the '592 patent is invalid for failure to meet the statutory and decisional requirements for patentability, including, but not limited to, 35 U.S.C. §§ 101-103 and/or 112.

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NINTH AFFIRMATIVE DEFENSE

(Invalidity of the '830 patent)

52. Each claim of the '830 patent is invalid for failure to meet the statutory and decisional requirements for patentability, including, but not limited to, 35 U.S.C. §§ 101-103 and/or 112.

TENTH AFFIRMATIVE DEFENSE

(Invalidity of the '893 patent)

53. Each claim of the '893 patent is invalid for failure to meet the statutory and decisional requirements for patentability, including, but not limited to, 35 U.S.C. §§ 101-103 and/or 112.

ELEVENTH AFFIRMATIVE DEFENSE

(Invalidity of the '990 patent)

54. Each claim of the '990 patent is invalid for failure to meet the statutory and decisional requirements for patentability, including, but not limited to, 35 U.S.C. §§ 101-103 and/or 112.

TWELFTH AFFIRMATIVE DEFENSE

(Invalidity of the '200 patent)

55. Each claim of the '200 patent is invalid for failure to meet the statutory and decisional requirements for patentability, including, but not limited to, 35 U.S.C. §§ 101-103 and/or 112.

THIRTEENTH AFFIRMATIVE DEFENSE

(Invalidity of the '434 patent)

56. Each claim of the '434 patent is invalid for failure to meet the statutory and decisional requirements for patentability, including but not limited to, 35 U.S.C. §§ 101-103 and/or 112.

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FOURTEENTH AFFIRMATIVE DEFENSE

(Invalidity of the '879 patent)

57. Each claim of the '879 patent is invalid for failure to meet the statutory and decisional requirements for patentability, including, but not limited to, 35 U.S.C. §§ 101-103 and/or 112.

FIFTEENTH AFFIRMATIVE DEFENSE

(Statute of Limitations)

58. Recovery on Plaintiffs and Counterdefendants' Claims is barred, in whole or in part, by the applicable statute of limitations, 35 U.S.C. § 286.

SIXTEENTH AFFIRMATIVE DEFENSE

(Equitable Doctrines)

59. Plaintiffs and Counterdefendants' Claims are barred by the equitable doctrines of laches, estoppel, waiver, implied license, and/or unclean hands.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Prosecution History Estoppel)

60. Plaintiffs' claims for relief are barred under the doctrine of prosecution history estoppel to the extent that plaintiffs allege infringement under the doctrine of equivalents.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Res Judicata and Collateral Estoppel)

61. On information and belief, some or all of Plaintiffs' and Counterdefendants' claims are barred, in whole or in part, by the doctrines of res judicata and/or collateral estoppel.

COUNTERCLAIMS

THE PARTIES

62. SEA is a New York corporation with its principal place of business at 105 Challenger Road, Ridgefield Park, New Jersey 07660.

63. On information and belief, AMD is a Delaware corporation with its principal offices at One AMD Place, Sunnyvale, California 94085.

1 64. On information and belief, ATI is a subsidiary of AMD and is incorporated in
2 Alberta, Canada, with its principal place of business at 1 Commerce Valley Drive E, Markham,
3 Ontario, L3T 7X6, Canada.

4 **JURISDICTION AND VENUE**

5 65. SEA's counterclaims do not require the presence of third parties over whom this
6 Court cannot acquire jurisdiction for adjudication. This Court has subject matter jurisdiction over
7 these counterclaims pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

8 66. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), 1391(d),
9 and 1400(b).

10 **FIRST CLAIM FOR RELIEF**

11 **(Declaratory Judgment of Non-Infringement)**

12 67. SEA repeats and realleges each and every allegation set forth in paragraphs 62
13 through 66 as if fully set forth herein.

14 68. This Claim arises under the Federal Declaratory Relief Act and the Patent Laws of
15 the United States, and more particularly, under 28 U.S.C. §§ 2201 and 2202 and 35 U.S.C. § 1, *et*
16 *seq.*

17 69. On February 18, 2008, Plaintiffs and Counterdefendants filed this lawsuit, which
18 alleges that SEA infringes the AMD patents.

19 70. A justiciable controversy exists between SEA on the one hand and Plaintiffs and
20 Counterdefendants on the other hand concerning the infringement and validity of the AMD patents.

21 71. SEA has not and is not now infringing, contributorily infringing, or inducing
22 infringement of any of the AMD patents.

23 72. SEA is entitled to a declaratory judgment that it has not infringed and does not
24 infringe directly or indirectly, contributorily or by inducement, any of the AMD patents.

25 **SECOND CLAIM FOR RELIEF**

26 **(Declaratory Judgment of Invalidity)**

27 73. SEA repeats and realleges each and every allegation set forth in paragraphs 62
28 through 72 as if fully set forth herein.

1 74. This Claim arises under the Federal Declaratory Relief Act and the Patent Laws of
2 the United States, and more particularly, under 28 U.S.C. §§ 2201 and 2202 and 35 U.S.C. § 1, *et*
3 *seq.*

4 75. On February 18, 2008, Plaintiffs and Counterdefendants filed this lawsuit, which
5 alleges that SEA infringes the AMD patents.

6 76. A justiciable controversy exists between SEA on the one hand and Plaintiffs and
7 Counterdefendants on the other hand concerning the infringement and validity of the AMD patents.

8 77. Each claim of the AMD patents is invalid for failure to comply with the conditions
9 and requirements of patentability set forth in the patent statutes, including 35 U.S.C. §§ 101, 102,
10 103, and/or 112.

11 78. SEA is entitled to a declaratory judgment that the AMD patents are invalid.

12 **PRAAYER FOR RELIEF**

13 Wherefore SEA prays for judgment and relief as follows:

14 a. That Plaintiffs and Counterdefendants are not entitled to the relief prayed for in their
15 Complaint, or to any relief whatsoever; and that the Complaint be dismissed with prejudice;

16 b. That the Court grant SEA declaratory judgment that the AMD patents have never
17 been, and are not now, infringed by SEA or by any other person using SEA's products, and that
18 SEA has not induced infringement of or contributorily infringed the AMD patents;

19 c. That the Court grant SEA declaratory judgment that the AMD patents are invalid;

20 d. That the Court adjudge this to be an "exceptional case" and award SEC attorneys'
21 fees pursuant to 35 U.S.C. § 285.

22 e. That SEA be awarded its costs of suit pursuant to 35 U.S.C. § 284; and

23 f. That the Court order such other and further relief as the Court deems proper.

24 **DEMAND FOR JURY TRIAL**

25 SEA demands a jury trial on all issues that may be so tried.

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DATED: May 15, 2008

HELLER EHRMAN LLP

/s/Robert T. Haslam
ROBERT T. HASLAM
Attorneys for Defendant and Counterclaimant
SAMSUNG ELECTRONICS AMERICA, INC.