

1 ROBERT T. HASLAM (Bar No. 71134)  
 Robert.Haslam@hellerehrman.com  
 2 MICHAEL K. PLIMACK (Bar No. 133869)  
 Michael.Plimack@hellerehrman.com  
 3 CHRISTINE SAUNDERS HASKETT (Bar No. 188053)  
 Christine.Haskett@Hellerehrman.com  
 4 HELLER EHRMAN LLP  
 5 333 Bush Street  
 San Francisco, California 94104  
 6 Telephone: (415) 772-6000  
 7 Facsimile: (415) 772-6268

8 ALAN H. BLANKENHEIMER (Bar No. 218713)  
 Alan.Blankenheimer@hellerehrman.com  
 9 LAURA UNDERWOOD-MUSCHAMP (Bar No. 228717)  
 Laura.Underwood-Muschamp@hellerehrman.com  
 10 JO DALE CAROTHERS (Bar No. 228703)  
 JoDale.Carothers@hellerehrman.com  
 11 HELLER EHRMAN LLP  
 12 4350 La Jolla Village Drive, 7th Floor  
 San Diego, CA 92122-1246  
 13 Telephone: (858) 450-8400  
 14 Facsimile: (850) 450-8499

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 CO., LTD  
 DEMAND FOR JURY TRIAL**

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

5 **INTRODUCTION**

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

16 **THE PARTIES**

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

1 9. SEC admits the allegations of paragraph 9 of the Complaint.

2 **JURISDICTION**

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

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

11 **VENUE**

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

17 **INTRADISTRICT ASSIGNMENT**

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

21 **FACTUAL BACKGROUND**

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

24 (a) SEC denies that the '592 patent was duly and legally issued. SEC admits that the  
25 face of the '592 patent indicates that it issued from an application filed on February 24, 1995 and  
26 that the purported inventor listed on the face of the patent is John A. Iacononi. To the extent the  
27 remaining allegations of paragraph 14(a) 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 SEC denies the allegations of paragraph 14(a) of the Complaint.

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

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

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

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

27 (f) SEC denies that the '434 patent was duly and legally issued. SEC admits that the  
28 face of the '434 patent indicates that it issued from an application filed on July 27, 1994, and that

1 the purported inventor listed on the face of the patent is Stephen C. Purcell. To the extend the  
2 remaining allegations of paragraph 14(f) of the Complaint state legal conclusions, SEC is not  
3 required to, and does not, admit or deny such allegations. To the extent not expressly admitted,  
4 SEC denies the allegations of paragraph 14(f) of the Complaint.

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

11 15. SEC denies the allegations of paragraph 15 of the Complaint.

12 16. To the extent the allegations of paragraph 16 of the Complaint state legal  
13 conclusions, SEC is not required to, and does not, admit or deny such allegations. SEC admits that  
14 SEC had notice of the '592 patent no later than April, 2006. SEC admits that SEC had notice of the  
15 '830 patent no later than March 31, 2003. To the extent not expressly admitted, SEC denies the  
16 allegations of paragraph 16 of the Complaint.

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

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

20 **RESPONSE TO FIRST CLAIM FOR RELIEF**

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

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

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

25 22. To the extent the allegations of paragraph 22 of the Complaint state legal allegations,  
26 SEC is not required to, and does not, admit or deny such allegations. SEC admits that SEC had  
27 knowledge of the '592 patent as early as April 2006. SEC denies that Defendants have infringed  
28 one or more claims of the '592 patent and deny that Defendants have willfully and deliberately

1 infringed one or more claims of the '592 patent. To the extent not expressly admitted, SEC denies  
2 the allegations of paragraph 22 of the Complaint.

3 **RESPONSE TO SECOND CLAIM FOR RELIEF**

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

6 24. SEC denies the allegations of paragraph 24 of the Complaint.

7 25. SEC denies the allegations of paragraph 25 of the Complaint.

8 26. SEC admits that SEC had knowledge of the '830 patent as early as March 31, 2003  
9 and admits that on March 31, 2003 AMD presented SEC with a PowerPoint presentation related to  
10 the '830 patent. To the extent not expressly admitted, SEC denies the allegations of paragraph 26  
11 of the Complaint.

12 **RESPONSE TO THIRD CLAIM FOR RELIEF**

13 27. SEC incorporates by reference its above responses to paragraphs 1 through 26 of the  
14 Complaint as if specifically set forth herein.

15 28. SEC denies the allegations of paragraph 28 of the Complaint.

16 29. SEC denies the allegations of paragraph 29 of the Complaint.

17 **RESPONSE TO FOURTH CLAIM FOR RELIEF**

18 30. SEC incorporates by reference its above responses to paragraphs 1 through 29 of the  
19 Complaint as if specifically set forth herein.

20 31. SEC denies the allegations of paragraph 31 of the Complaint.

21 32. SEC denies the allegations of paragraph 32 of the Complaint.

22 **RESPONSE TO FIFTH CLAIM FOR RELIEF**

23 33. SEC incorporates by reference its above responses to paragraphs 1 through 32 of the  
24 Complaint as if specifically set forth herein.

25 34. SEC denies the allegations of paragraph 34 of the Complaint.

26 35. SEC denies the allegations of paragraph 35 of the Complaint.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**RESPONSE TO SIXTH CLAIM FOR RELIEF**

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

37. SEC denies the allegations of paragraph 37 of the Complaint.

38. SEC denies the allegations of paragraph 38 of the Complaint.

**RESPONSE TO SEVENTH CLAIM FOR RELIEF**

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

40. SEC denies the allegations of paragraph 40 of the Complaint.

41. SEC denies the allegations of paragraph 41 of the Complaint.

**RESPONSE TO PRAYER FOR RELIEF**

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

**AFFIRMATIVE DEFENSES**

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

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

**FIRST AFFIRMATIVE DEFENSE**

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

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

**SECOND AFFIRMATIVE DEFENSE**

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

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**THIRD AFFIRMATIVE DEFENSE**

**(Non-Infringement of the '893 patent)**

46. SEC 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. SEC 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. SEC 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. SEC 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. SEC 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.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**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. SEC is a Korean business entity with its principal offices at 250, 2-ga, Taepyong-ro, Jung-gu, Seoul, 100-742, South Korea.

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. SEC'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. SEC 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 SEC infringes the AMD patents.

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

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

23 72. SEC 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. SEC 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 SEC infringes the AMD patents.

6 76. A justiciable controversy exists between SEC 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. SEC is entitled to a declaratory judgment that the AMD patents are invalid.

12 **THIRD CLAIM FOR RELIEF**

13 **(Infringement of U.S. Patent No. 6,407,429)**

14 79. SEC repeats and realleges each and every allegation set forth in paragraphs 62  
15 through 78 as if fully set forth herein.

16 80. United States Patent No. 6,407,429 (the “‘429 patent”), entitled “Semiconductor  
17 Device Having Silicon Insulator and Fabricating Method Therefor,” was duly and legally issued on  
18 June 18, 2002 with Young-Gun Ko named as the lead inventor. The ‘429 patent was assigned to  
19 SEC. Plaintiffs and Counterdefendants have actual notice of the ‘429 patent and the infringement  
20 alleged herein at least upon the filing of these counterclaims, if not earlier, pursuant to 35 U.S.C.  
21 § 287(a).

22 81. SEC is now, and has at all times been, the owner of the ‘429 patent.

23 82. Plaintiffs and Counterdefendants have infringed, actively induced, and/or  
24 contributed to the infringement of one or more claims of the ‘429 patent, literally and/or under the  
25 doctrine of equivalents by making, using, offering for sale, selling, causing to be sold, and/or  
26 importing, among other things, semiconductor devices and products incorporating semiconductor  
27 devices. The infringement remains ongoing.

1 83. As a result of the infringement of one or more claims of the '429 patent, SEC has  
2 been damaged in an amount to be determined at trial.

3 84. Plaintiffs and Counterdefendants' ongoing infringement causes SEC irreparable  
4 harm.

5 **FOURTH CLAIM FOR RELIEF**

6 **(Infringement of U.S. Patent No. 5,173,442 Against ATI)**

7 85. SEC repeats and realleges each and every allegation set forth in paragraphs 62  
8 through 84 as if fully set forth herein.

9 86. United States Patent No. 5,173,442 (the "'442 patent"), entitled "Methods and  
10 Forming Channels and Vias in Insulating Layers," was duly and legally issued on December 22,  
11 1992 with David H. Carey named as the inventor. On June 12, 2002, the original assignee of the  
12 '442 patent, Microelectronics and Computer Technology Corporation, assigned the '442 patent to  
13 SEC.

14 87. SEC is the owner of the '442 patent.

15 88. ATI infringed, actively induced, and/or contributed to the infringement of one or  
16 more claims of the '442 patent, literally and/or under the doctrine of equivalents by making, using,  
17 offering for sale, selling, causing to be sold, and/or importing, among other things, semiconductor  
18 devices and/or products incorporating semiconductor devices. This infringement occurred up to the  
19 time that ATI became a subsidiary of AMD.

20 89. As a result of the infringement of one or more claims of the '442 patent, SEC has  
21 been damaged in an amount to be determined at trial.

22 **FIFTH CLAIM FOR RELIEF**

23 **(Infringement of U.S. Patent No. 5,091,339 Against ATI)**

24 90. SEC repeats and realleges each and every allegation set forth in paragraphs 62  
25 through 89 as if fully set forth herein.

26 91. United States Patent No. 5,091,339 (the "'339 patent") was duly and legally issued  
27 on February 25, 1992 with David H. Carey named as the inventor. On June 12, 2002, the original

1 assignee of the '339 patent, Microelectronics and Computer Technology Corporation, assigned the  
2 '442 patent to SEC.

3 92. SEC is the owner of the '339 patent.

4 93. ATI infringed, actively induced, and/or contributed to the infringement of one or  
5 more claims of the '339 patent, literally and/or under the doctrine of equivalents by making, using,  
6 offering for sale, selling, causing to be sold, and/or importing, among other things, semiconductor  
7 devices and/or products incorporating semiconductor devices. This infringement occurred up to the  
8 time that ATI became a subsidiary of AMD.

9 94. As a result of the infringement of one or more claims of the '339 patent, SEC has  
10 been damaged in an amount to be determined at trial.

11 **SIXTH CLAIM FOR RELIEF**

12 **(Infringement of U.S. Patent No. 5,781,750)**

13 95. SEC repeats and realleges each and every allegation set forth in paragraphs 62  
14 through 94 as if fully set forth herein.

15 96. United States Patent No. 5,781,750 (the "'750 patent"), entitled "Dual-Instruction-  
16 Set Architecture CPU with Hidden Software Emulation Mode," was duly and legally issued on July  
17 14, 1998 with James S. Blomgren named as the lead inventor. On November 14, 2002, the '750  
18 patent was assigned to SEC.

19 97. SEC is the owner of the '750 patent.

20 98. Plaintiffs and Counterdefendants have infringed, actively induced, and/or  
21 contributed to the infringement of one or more claims of the '750 patent, literally and/or under the  
22 doctrine of equivalents by making, using, offering for sale, selling, causing to be sold, and/or  
23 importing, among other things, semiconductor devices and products incorporating semiconductor  
24 devices. The infringement remains ongoing.

25 99. On information and belief, Plaintiffs and Counterdefendants have infringed, actively  
26 induced, and/or contributed to the infringement of the '750 patent willfully and deliberately.  
27 Plaintiffs and Counterdefendants had actual notice of the '750 patent prior to the filing of these  
28 counterclaims, pursuant to 35 U.S.C. § 287(a).

1 100. As a result of the infringement of the '750 patent, SEC has been damaged in an  
2 amount to be determined at trial.

3 101. Plaintiffs and Counterdefendants' ongoing infringement causes SEC irreparable  
4 harm.

5 **SEVENTH CLAIM FOR RELIEF**

6 **(Infringement of U.S. Patent No. 5,470,065)**

7 102. SEC repeats and realleges each and every allegation set forth in paragraphs 62  
8 through 101 as if fully set forth herein.

9 103. United States Patent No. 5,470,065 (the "'065 patent"), entitled "Method for  
10 Manufacturing Semiconductor Device," was duly and legally issued on April 14, 1998 with Young-  
11 Chul Jang named as the lead inventor. The '065 patent was assigned to SEC.

12 104. SEC is now, and has at all times been, the owner of the '065 patent.

13 105. Plaintiffs and Counterdefendants have infringed, actively induced, and/or contributed  
14 to the infringement of one or more claims of the '065 patent, literally and/or under the doctrine of  
15 equivalents by making, using, offering for sale, selling, causing to be sold, and/or importing, among  
16 other things, semiconductor devices and products incorporating semiconductor devices. The  
17 infringement remains ongoing.

18 106. As a result of the infringement of one or more claims of the '065 patent, SEC has  
19 been damaged in an amount to be determined at trial.

20 107. Plaintiffs and Counterdefendants' ongoing infringement causes SEC irreparable  
21 harm.

22 **EIGHTH CLAIM FOR RELIEF**

23 **(Infringement of U.S. Patent No. 6,689,648)**

24 108. SEC repeats and realleges each and every allegation set forth in paragraphs 62  
25 through 107 as if fully set forth herein.

26 109. United States Patent No. 6,689,648 (the "'648 patent"), entitled "Semiconductor  
27 Device Having Silicon on Insulator and Fabricating Method Therefor," was duly and legally issued

1 on February 10, 2004 with Young-Gun Ko named as the lead inventor. The '648 patent was  
2 assigned to SEC.

3 110. SEC is now, and has at all times been, the owner of the '648 patent.

4 111. Plaintiffs and Counterdefendants have infringed, actively induced, and/or  
5 contributed to the infringement of one or more claims of the '648 patent, literally and/or under the  
6 doctrine of equivalents by making, using, offering for sale, selling, causing to be sold, and/or  
7 importing, among other things, semiconductor devices and products incorporating semiconductor  
8 devices. The infringement remains ongoing.

9 112. As a result of the infringement of one or more claims of the '648 patent, SEC has  
10 been damaged in an amount to be determined at trial.

11 113. Plaintiffs and Counterdefendants' ongoing infringement causes SEC irreparable  
12 harm.

13 **PRAAYER FOR RELIEF**

14 Wherefore SEC prays for judgment and relief as follows:

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

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

20 c. That the Court grant SEC declaratory judgment that the AMD patents are invalid;

21 d. That Plaintiffs and Counterdefendants be adjudged to have infringed, actively  
22 induced the infringement of, and/or contributed to the infringement of the '429 patent, the '750  
23 patent, the '065 patent, and the '648 patent.

24 e. That ATI be adjudged to have infringed, actively induced the infringement of, and/or  
25 contributed to the infringement of the '442 patent and the '339 patent.

26 f. That SEC be awarded damages of not less than a reasonable royalty and that  
27 damages as the result of infringement of the '750 patent be trebled as a result of Plaintiffs and  
28 Counterdefendants' willful infringement.



1 g. That this Court issue an injunction permanently enjoining Plaintiffs and  
2 Counterdefendants, its officers, partners, employees, agents, parents, subsidiaries, attorneys, and  
3 anyone acting in concert with any of them, from manufacturing, using, selling, offering for sale,  
4 and/or importing into the United States any product that infringes upon the rights secured by the  
5 '429 patent, the '750 patent, the '065 patent, and the '648 patent.

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

8 i. That SEC be awarded its costs of suit pursuant to 35 U.S.C. § 284; and

9 j. That the Court order such other and further relief as the Court deems proper.

10 **DEMAND FOR JURY TRIAL**

11 SEC demands a jury trial on all issues that may be so tried.

12  
13 DATED: May 15, 2008

HELLER EHRMAN LLP

14  
15 /s/Robert T. Haslam

16 ROBERT T. HASLAM

17 Attorneys for Defendant and Counterclaimant  
18 SAMSUNG ELECTRONICS CO., LTD.  
19  
20  
21  
22  
23  
24  
25  
26  
27