

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MEMORY INTEGRITY, LLC,

Plaintiff,

v.

FUJITSU LIMITED AND
FUJITSU AMERICA, INC.,

Defendants.

Civil Action No.1:13-cv-1800 GMS

JURY TRIAL DEMANDED

**PLAINTIFF MEMORY INTEGRITY, LLC'S ANSWER TO COUNTERCLAIMS OF
DEFENDANTS FUJITSU LIMITED AND FUJITSU AMERICA, INC.**

Plaintiff Memory Integrity, LLC ("MI"), by and through its counsel, hereby responds to the counterclaims of Defendants Fujitsu Limited and Fujitsu America, Inc. (collectively, "Fujitsu" or "Defendants").

ANSWER TO COUNTERCLAIMS

Memory Integrity restates and incorporates by reference the allegations set forth in paragraphs 1-16 of its Complaint.

THE PARTIES

1. Counterclaimant Fujitsu Limited is a corporation organized and existing under the laws of Japan, with a principal place of business at Shiodome City Center, 1-5-2 Higashi-Shimbashi Minato-ku, Tokyo 105-7123, Japan.

ANSWER: Memory Integrity lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore denies them.

2. Counterclaimant Fujitsu America, Inc. is a corporation organized and existing under the laws of the State of California, with a principal place of business is located at 1250 East Arques Avenue, M/S 124, Sunnyvale, California 94085.

ANSWER: Memory Integrity lacks knowledge or information sufficient to form a belief about the truth of the allegations of this paragraph, and therefore denies them.

3. Counterclaim-defendant Memory Integrity has alleged it is a limited liability company organized under the laws of Delaware, with a place of business at 1220 N. Market Street, Suite 806, Wilmington, Delaware 19801.

ANSWER: Memory Integrity admits that it is a limited liability company organized under the laws of the State of Delaware. Memory Integrity has a place of business at 1013 Centre Road, Suite 403S Wilmington, DE 19805. Memory Integrity denies the remainder of the allegations of paragraph 3.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331, 1338, 1367 and 2201-02, and this matter arises under the patent laws of the United States, 35 U.S.C. § 1 et seq.

ANSWER: Admitted.

5. Counterclaim-defendant has consented to personal jurisdiction for this action in this District by filing the Complaint in this action.

ANSWER: Memory Integrity admits that it has consented to personal jurisdiction in this Court for the present action.

6. Venue is proper in this Court only to the extent it is proper for Memory Integrity's claims against Fujitsu. Fujitsu, however, believes that, for the convenience of the parties and

witnesses, and in the interest of justice, transfer of this case (including Memory Integrity's claims and Fujitsu's counterclaims) to another district is appropriate pursuant to 28 U.S.C. §1404(a).

ANSWER: Memory Integrity admits that venue is proper. Memory Integrity denies all other allegations of paragraph 6.

CLAIM ONE
(Declaratory Judgment of Invalidity of the '121 patent)

7. Fujitsu repeats and incorporates by reference all allegations in paragraphs 1 through 6 of the Counterclaims, as if set forth fully herein.

ANSWER: Memory Integrity realleges and incorporates by reference its responses to the foregoing paragraphs as though fully set forth herein.

8. There is an actual and justiciable controversy between Fujitsu and Memory Integrity over the validity of the '121 patent, as evidenced by counterclaim-defendant's filing of the Complaint.

ANSWER: Memory Integrity admits that there exists an actual and justiciable controversy between Fujitsu and Memory Integrity over the validity of the '121 Patent.

9. All claims of the '121 patent are invalid for failure to comply with the provisions of Title 35 of the United States Code, including without limitation, 35 U.S.C. §§ 102, 103, and/or 112.

ANSWER: Denied.

10. Fujitsu is entitled to a judicial declaration and order that all claims of the '121 patent are invalid.

ANSWER: Denied.

CLAIM TWO
(Declaratory Judgment of Non-infringement of the '121 patent)

11. Fujitsu repeats and incorporates by reference all allegations in paragraphs 1 through 10 of the Counterclaims, as if set forth fully herein.

ANSWER: Memory Integrity realleges and incorporates by reference its responses to the foregoing paragraphs as though fully set forth herein.

12. There is an actual and justiciable controversy between Fujitsu and Memory Integrity as to whether Fujitsu infringes or has infringed the '121 patent, as evidenced by counterclaim-defendant's filing of the Complaint.

ANSWER: Memory Integrity admits that there exists an actual and justiciable controversy between Fujitsu and Memory Integrity as to whether Fujitsu infringes or has infringed the '121 Patent.

13. Fujitsu is not infringing and has not infringed, directly or indirectly, any valid claim of the '121 patent, either literally or under the doctrine of equivalents.

ANSWER: Denied.

14. Fujitsu is entitled to a judicial declaration and order that it does not infringe and has not infringed any valid claim of the '121 patent.

ANSWER: Denied.

MEMORY INTEGRITY'S AFFIRMATIVE DEFENSES

By way of further answer, as Affirmative Defenses to Fujitsu's Counterclaims, and without assuming any burden that it would not otherwise have, Memory Integrity states as follows:

FIRST AFFIRMATIVE DEFENSE

Fujitsu's Counterclaims fail to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Memory Integrity expressly reserves the right to assert any other legal or equitable defenses to which it is entitled.

PRAYER FOR RELIEF

WHEREFORE, Memory Integrity prays for judgment as follows:

- A. Dismiss Fujitsu's Counterclaims in their entirety without prejudice;
- B. Deny all of Fujitsu's Counterclaims against Memory Integrity;
- C. Award Memory Integrity its costs and attorney's fees incurred in defending against these Counterclaims; and
- D. Award Memory Integrity any and all further relief as the Court may deem just and proper.

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