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12	Semiconductor Corp.		
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16	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN JOSE DIVISION		
17			
18		Case No.	
19	REALTEK SEMICONDUCTOR CORP.,	COMPLAINT FOR BREACH OF	
20	Plaintiff,	CONTRACT AND DECLARATORY JUDGMENT	
$\begin{bmatrix} 20 \\ 21 \end{bmatrix}$	vs.		
$\begin{bmatrix} 21 \\ 22 \end{bmatrix}$	ANDREA ELECTRONICS CORP.,	PUBLIC REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED	
23	Defendant.		
		JURY TRIAL DEMANDED	
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Plaintiff Realtek Semiconductor Corporation ("Realtek"), for its Complaint against Defendant Andrea Electronics Corporation ("Andrea"), states as follows:

## **NATURE OF ACTION**

1.	This is a breach of contract and declaratory judgment action brought by Realtek
against Andrea	a, concerning a License Agreement entered into between Realtek and Andrea
("License Agr	eement'').

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Andrea filed a complaint before the International Trade Commission, alleging that Realtek's products infringe five United States patents directed to systems utilizing the licensed software algorithms. Andrea has requested that the International Trade Commission issue a Limited Exclusion Order excluding both Realtek's audio products and any third-party products (such as laptops) that incorporate the licensed Realtek audio products from entry into the United States. Andrea also filed suit in the United States District Court for the Eastern District of New York, alleging infringement of the same five patents, but has not properly effected service of its complaint.

3. Andrea's initiation of litigation and allegations of unlicensed infringement of its patents against Realtek is a material breach of the License Agreement. Accordingly, Realtek brings this action to recover damages resulting from Andrea's breach. In addition, Realtek seeks injunctive relief and an order requiring specific performance, requiring Andrea move to terminate the ITC investigation as to Realtek and its customers and/or preventing Andrea from requesting a Limited Exclusion Order or other injunctive relief in violation of the License Agreement. Realtek also seeks a declaratory judgment that: (1) its accused products are licensed by Andrea under the License Agreement; (2) the "intent and purpose" of the License Agreement cannot be effected without a



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### THE LICENSE AGREEMENT BETWEEN REALTEK AND ANDREA

11. Realtek is a maker of audio codec chips that are typically incorporated into personal computers, such as laptops. In addition to hardware, Realtek provides the option of using its software drivers to work in conjunction with the audio codec chips. Realtek has invested significant time, money and resources in creating a distribution channel that supplies the chips to distributors and original design manufacturers, primarily located in Asia. Realtek further makes software drivers for its audio codec chips available

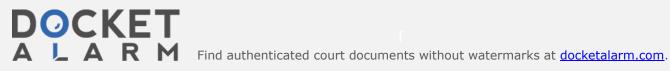
12.

On information and belief,

, Andrea was struggling in the PC audio technology market and wished to increase the availability of its audio software to manufacturers and end users.

13. On information and belief, Andrea sold PC audio equipment such as microphones and speakers, primarily in the after market. Andrea's audio equipment worked in conjunction with software algorithms that performed audio signal processing. Because Andrea's algorithms were not incorporated into most audio encoder/decoder ("codec") chips at the time, Andrea sold microphone arrays and other audio equipment that connected to computers through Universal Serial Bus (USB) connections and provided software drivers that performed its algorithms on the main processor (rather than on the audio codec chip), which required installation of the software. Andrea could not sell microphones and other audio equipment that used analog connections, such as the microphone and speaker jacks, since they were directly connected to the computer's audio codec chip. In order to increase sales by opening up this segment of the market, Andrea desired to partner with audio codec chip manufacturers, such as Realtek, to incorporate Andrea's software algorithms directly into drivers for audio codec chips.

1	14. Additionally, on information and belief,
2	purchaser of Andrea USB-based audio equipment was required to install Andrea's audio software
3	onto the PC either from a disk or from the Internet. This extra step prevented the consumer from
4	having a "plug and play" experience. Thus, Andrea further desired to partner with audio codec chip
5	manufacturers to incorporate its software algorithms directly into drivers to provide a "plug and
6	play" experience to end users, again, to increase sales.
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# DOCKET

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