

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

PACT XPP SCHWEIZ AG,)
)
Plaintiff,) C.A. No. 19-1006-RGA
)
v.)
)
INTEL CORPORATION,)
)
Defendant.)

INTEL CORPORATION'S INITIAL INVALIDITY CONTENTIONS

Contentions, these phrases are indefinite because they do not have a meaning that can be clearly and definitely determined from the patent, and thus fails to put the public on notice of what is and is not covered by claims 4-5, 7-16, 18-19, 23-28, 30, 32-34, 36, 41, and 44.

Claims 4-5, 7-16, 18-19, 23-28, 30, 32-34, 36, 41, and 44 are invalid because they are not enabled or described by the specification of the '301 Patent. The subject matter of claims 4-5, 7-16, 18-19, 23-28, 30, 32-34, 36, 41, and 44 as applied in Plaintiff's Infringement Contentions, and particularly the "programmably processing sequences," "code sections," "individually defining a power supply," "runtime configurable," and "state of the processing device" is not sufficiently shown in the specification of the '301 Patent. The foregoing phrase is not described in such a way that one of ordinary skill in the art could implement it to achieve the results sought by the individuals named on the face of the '301 Patent as inventors. The foregoing phrase is not described in such a way that a person having ordinary skill in the art at the time of the alleged invention would have understood that the individuals named as inventors on the face of the '301 Patent were in possession of the claimed subject matter. The asserted claims of the '301 patent also do not comply with section 112 because they do not set forth what the applicant regards as the invention.

A more detailed basis for the above indefiniteness, written description, and enablement defenses may be set forth in any expert report(s) on invalidity to be served by Intel in accordance with the Court's Scheduling Order.

IV. THE '593 PATENT

Claims 1, 2, 4-11, 14-17, 21-27 of the '593 Patent (the "Asserted '593 Patent Claims") have been asserted by Plaintiff in this litigation.

A. Identification of Prior Art, Basis for Invalidity Under 35 U.S.C. §§ 102, 103 and Claim Charts

1. Anticipation

Based on Plaintiff's October 11, 2019 Disclosure of Asserted Claims and Infringement Contentions, Intel identifies prior art below and in Exhibit D, which contains charts disclosing the identity of each item of prior art that anticipates each claim and/or renders it obvious. As shown in Exhibit D and below, Intel has identified each prior art patent by its number, country of origin, and date of issue. To the extent feasible, Intel has identified each prior art publication by its title, date of publication, author, and publisher. Intel notes that it has applied the prior art in accordance with Plaintiff's improper assertions of infringement and improper applications of the claims. Intel does not agree with Plaintiff's application of the claims and denies infringement.

As set forth in Exhibit D and below, each of the following references, and any products, devices, or processes used in the prior art that embody the subject matter disclosed in the references, anticipates one or more asserted claims of the '593 Patent by expressly or inherently disclosing each and every limitation of those claims. To the extent PACT contends that any of the following anticipatory references do not anticipate any asserted claim, Intel reserves the right to contend that each of the anticipatory references renders the claims obvious either in view of the reference alone or in combination with other references. A corresponding claim chart for each reference is attached hereto in Exhibit D as indicated in the "Exh. No." column.

While Intel has identified at least one citation per element or limitation for each reference identified in the charts contained in Exhibit D, each and every disclosure of the same element or limitation in the same reference is not necessarily identified. In an effort to focus the issues, Intel cites exemplary relevant portions of identified references, even where a reference may contain additional disclosure for a particular claim element or limitation, and reserves all rights

to rely on other portions of the identified references to support its claims and/or defenses. Persons of ordinary skill in the art generally read a prior art reference as a whole and in the context of other publications and literature. Intel may rely on uncited portions of the prior art references and on other publications and expert testimony to provide context and as aids to understanding and interpreting the portions of the prior art references that are cited. Disclosures relating to initial elements of dependent claims are disclosed in connection with the independent claims from which they depend. Intel may also rely on uncited portions of the prior art references, other publications, and the testimony of experts to establish that a person of ordinary skill in the art would have been motivated to modify or combine certain of the cited references so as to render the claims obvious. Where Intel cites to a particular figure in a prior art reference, the citation should be understood to encompass the caption and description of the figure and any text relating to the figure in addition to the figure itself. Conversely, where a cited portion of text refers to a figure, the citation should be understood to include the figure as well.

a. Prior Art Patents and Domestic and Foreign Patent Applications Under 35 U.S.C. § 102

Exh. No.	Patent / Publication No.	Country	Inventor(s)	Date of Issue
D1	6,457,087	U.S.	Daniel D. Fu	September 24, 2002
D2	0071727A1	EP	Robert L. Budzinski and Satish M. Thatte	February 16, 1983
D3	6,240,458	U.S.	Roger Lee Gilbertson	May 29, 2001
D4	5,197,140	U.S.	Keith Balmer	March 23, 1993

Exh. No.	Patent / Publication No.	Country	Inventor(s)	Date of Issue
D5	2002/0016891	U.S.	Karen L. Noel, Gregory H. Jordan, Paul K. Harter Jr., and Thomas Benson	February 7, 2002
D6	5,909,702	U.S.	Marc Jalfon, David Regenold, Franco Ricci, and Ramprasad Satagopan	June 1, 1999
D7	5,761,523	U.S.	Paul Wilkinson, James Dieffenderfer, Peter Kogge, Nicholas Schoonover	June 2, 1998

b. Prior Art Product

Exh. No.	Product Name	Date ⁶
D8	TMS320C80	1996
D9	POWER4	1999
D10	Intel IXP2800	1999
D11	Sequent NUMA-Q	1997
--	Intel Nehalem-EX ⁷	2010

2. Obviousness

See obviousness discussion *supra* Section I.A.2.

⁶ See 93613DOC0000003-4. Intel reserves the right to modify and supplement this information in the event that additional data is identified.

⁷ Nehalem-EX was sold by Intel at least as early as January 15, 2010. PACT is not entitled to a priority date earlier than the filing date of the application leading to the '593 patent. To the extent PACT cannot prove an earlier priority date, the Nehalem-EX processor would invalidate the '593 patent for at least the reasons set forth in PACT's infringement contentions.

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