

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

BANDSPEED, LLC,

Plaintiff,

v.

MICROCHIP TECHNOLOGY, INC.

Defendant.

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CASE NO. 1:18-cv-519

**COMPLAINT**

Plaintiff Bandspeed, LLC (“Bandspeed”), by and through its attorneys, files its Complaint against defendant Microchip Technology, Inc. (“Defendant”), and hereby alleges as follows:

**I. NATURE OF ACTION**

1. This is a patent infringement action to end Defendant’s unauthorized and infringing manufacture, use, sale, offering for sale, and/or importation of methods and products incorporating Bandspeed’s patented inventions.

2. Bandspeed is the owner of all right, title, and interest in and to United States Patent No. 7,027,418 (“the ’418 Patent”), issued on April 11, 2006 for “Approach for Selecting Communications Channels Based on Performance.”

3. Bandspeed is the owner of all right, title, and interest in and to United States Patent No. 7,477,624 (“the ’624 Patent”), issued on January 13, 2009 for “Approach for Managing the Use of Communications Channels Based on Performance.”

4. Bandspeed is the owner of all right, title, and interest in and to United States Patent No. 7,570,614 (“the ’614 patent”), issued on August 4, 2009 for “Approach for Managing Communications Channels Based on Performance.”

5. Bandspeed is the owner of all right, title, and interest in and to United States Patent No. 7,903,608 (“the ’608 Patent”), issued on March 8, 2011 for “Approach for Managing the Use of Communications Channels Based on Performance.”

6. Bandspeed is the owner of all right, title, and interest in and to United States Patent No. 8,542,643 (“the ’643 Patent), issued on September 24, 2013 for “Approach for Managing the Use of Communications Channels Based on Performance.”

7. Bandspeed is the owner of all right, title, and interest in and to United States Patent No. 8,873,500 (“the ’500 Patent), issued on October 28, 2014 for “Approach for Managing the Use of Communications Channels Based on Performance.”

8. Bandspeed is the owner of all right, title, and interest in and to United States Patent No. 9,379,769 (“the ’769 Patent), issued on June 28, 2016 for “Approach for Managing the Use of Communications Channels Based on Performance.”

9. Bandspeed is the owner of all right, title, and interest in and to United States Patent No. 9,883,520 (“the ’520 Patent), issued on January 30, 2018 for “Approach for Managing the Use of Communications Channels Based on Performance.”

10. The ’418 Patent, ’624 Patent, ’614 Patent, ’608 Patent, ’643 Patent, ’500 Patent, ’769 Patent, and ’520 Patent are, collectively, the “Patents.”

11. Bandspeed has all substantial right and interest to the Patents, including all rights to recover for all past and future infringement thereof.

12. Upon information and belief, Defendant has been and currently is infringing, contributing to the infringement of, and/or inducing the infringement of Bandspeed’s Patents, by, among other things, making, using, selling, importing, and/or offering for sale, within the territorial

boundaries of the United States, products that are covered by one or more claims of Bandspeed's Patents.

13. Defendant manufactures, provides, sells, offers for sale, imports, and/or distributes infringing products and services; and/or induces others to make and use its products and services in an infringing manner; and/or contributes to the making and use of infringing products and services by others, including its customers, who directly infringe the Patents.

## II. THE PARTIES

14. Plaintiff Bandspeed is a Texas limited liability company with its principal place of business located in Austin, Texas.

15. Upon information and belief, Defendant is a Delaware corporation with its principal place of business located at 10900-B Stonelake Blvd., Suite 100, Austin, Texas 78759. Upon information and belief, Defendant is authorized to do business in Texas. Defendant may be served by serving its registered agent CT Corporation System, 1999 Bryan St., Suite 900, Dallas, Texas 75201-3136.

16. On March 22, 2014, Microchip Technologies, Inc. announced the acquisition of ISSC Technologies Corporation. ISSC manufactures, markets, and sells Bluetooth products. ISSC has ceased to exist as an independently operating entity and is now wholly part of Microchip Technologies, Inc.

17. On April 19, 2012, Microchip Technologies, Inc. announced the acquisition of Roving Networks. Roving networks provides low-power embedded Wi-Fi and Bluetooth solutions. Roving Networks manufactures, markets, and sells Bluetooth products. Roving Networks has ceased to exist as an independently operating entity and is now wholly part of Microchip Technologies, Inc.

18. Defendant has knowledge of the Patents and the infringing nature of its activities at least as early as the date when Bandspeed effected service of the Complaint.

### **III. JURISDICTION AND VENUE**

19. This is an action for patent infringement arising under the Patent Laws of the United States, in particular 35 U.S.C. §271, 281, 283, 284, and 285. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §1331 and 1338(a).

20. This Court has personal jurisdiction over Defendant and venue is proper in this Court pursuant to 28 U.S.C. §1391(b), (c), and 1400.

### **IV. PLAINTIFF'S PATENTS**

21. The claims of the Patents describe inventive features and combinations relating to adaptive frequency hopping and the ability to avoid interference over communications channels that improved upon prior art systems and methods. In other words, the claims of the Patents generally describe novel techniques “for selecting sets of communications channels based on channel performance.” ’418 Patent at 4:49-50.

22. The Patents improve upon frequency hopping communications systems that existed at the time of the invention. One problem with frequency hopping communications systems is that coexistence problems arise between the frequency hopping communications system and non-frequency hopping communications systems that operate in the same frequency band. While the frequency hopping communications system hops over the entire frequency band, the non-frequency hopping communications systems occupy separate parts of the frequency band. When the frequency hopping communications system hops over part of the frequency band occupied by a non-frequency hopping communications system, there may be interference between the systems. Although the use of a frequency hopping protocol helps to lessen the interference problem because not all of the frequency hopping channels will interfere with other communications systems, there

nevertheless remains interference on those channels that coincide with the non-frequency hopping communications systems. An example of the interference situation is the coexistence problem between the frequency hopping IEEE 802.15.1 WPAN and the non-frequency hopping IEEE 802.11b Wireless Local Area Network (WLAN) because both share the 2.4 GHz ISM band. '418 Patent at 2:51-3:2. Interference results in data transmission errors, such as an increase in the bit error rate (BER) or the loss of data packets, resulting in reduced transmission quality and performance and the need to retransmit the data. '418 Patent at 3:17-20.

23. One approach for managing the coexistence problem is to increase the power used in the transmissions so that the other interfering system have less of an impact on the system transmitting at the increased power. However, this increased power approach drains batteries used by the participants, and thus the required power increase may be impractical. Also, the increased power approach only benefits the system using the increased power and results in a bigger interference impact on other systems. '418 Patent at 3:12-29.

24. Another approach for managing the coexistence problem is to skip a "bad" channel that suffers from interference, such as by moving onto the next channel in the sequence or by jumping to another randomly selected channel. However, this skipping approach does not necessarily avoid other bad channels because the next channel used may also have an interference problem. Also, known "bad" and "good" channels may change over time due to the transient nature of some types of interference. '418 Patent at 3:30-38.

25. The claims of the Patents solve the coexistence problem by using a method or system not conventional at the time of the invention: adaptive frequency hopping. As described in the Patents, a set of channels is used for communication between devices according to a frequency hopping ("FH") protocol. Another set of communications channels is selected in a similar manner

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