

2. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 2 of the Complaint and therefore denies the same.

3. AMD admits that it is a corporation organized and existing under the laws of the State of Delaware and has places of business in Austin, TX. AMD denies the remaining allegations in paragraph 3.

JURISDICTION AND VENUE

4. AMD admits the Complaint purports to be a civil action for infringement under the patent laws of the United States, but denies any liability related to the Complaint. Based solely on the allegations in the Complaint, AMD does not contest subject-matter jurisdiction in this district in this case. AMD denies the remaining allegations in paragraph 4.

5. Based solely on the allegations in the Complaint, AMD does not contest personal jurisdiction in this district in this case. AMD denies the remaining allegations of paragraph 5.

6. Based solely on the allegations in the Complaint, AMD does not contest personal jurisdiction or venue in this district in this case. AMD denies the remaining allegations of paragraph 6.

7. Based solely on the allegations in the Complaint, AMD does not contest personal jurisdiction in this district in this case. AMD denies the remaining allegations of paragraph 7.

8. Based solely on the allegations in the Complaint, AMD does not contest personal jurisdiction in this district in this case. AMD denies the remaining allegations of paragraph 8.

9. Based solely on the allegations in the Complaint, AMD does not contest personal jurisdiction or venue in this district in this case. AMD denies the remaining allegations of paragraph 9.

10. AMD admits that it has places of business in Austin, TX. AMD denies the remaining allegations of paragraph 10.

11. Based solely on the allegations in the Complaint, AMD does not contest personal jurisdiction in this district in this case. AMD denies the remaining allegations of paragraph 11.

12. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 12 of the Complaint and therefore denies the same.

13. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 13 of the Complaint and therefore denies the same.

14. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 14 of the Complaint and therefore denies the same.

15. Based solely on the allegations in the Complaint, AMD does not contest venue in this district in this case. AMD denies the remaining allegations of paragraph 15.

THE PATENTS-IN-SUIT

16. AMD repeats and incorporates by reference its responses to the allegations of paragraphs 1-15 of the Complaint as if fully set forth herein.

17. AMD admits that United States Patent No. 10,333,768 is titled “Cluster Computing” and is attached to the Complaint as Exhibit A. AMD denies the remaining allegations of paragraph 17.

18. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 18 of the Complaint and therefore denies the same.

19. AMD denies the allegations in paragraph 19.

20. AMD admits that United States Patent No. 11,563,621 is titled “Cluster Computing” and is attached to the Complaint as Exhibit B. AMD denies the remaining allegations of paragraph 20.

21. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 21 of the Complaint and therefore denies the same.

22. AMD denies the allegations in paragraph 22.

23. AMD admits that United States Patent No. 11,570,034 is titled “Cluster Computing” and is attached to the Complaint as Exhibit C. AMD denies the remaining allegations of paragraph 23.

24. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 24 of the Complaint and therefore denies the same.

25. AMD denies the allegations in paragraph 25.

26. AMD admits that United States Patent No. 11,811,582 is titled “Cluster Computing” and is attached to the Complaint as Exhibit D. AMD denies the remaining allegations of paragraph 26.

27. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 27 of the Complaint and therefore denies the same.

28. AMD denies the allegations in paragraph 28.

29. AMD admits that United States Patent No. 12,021,679 is titled “Cluster Computing” and is attached to the Complaint as Exhibit D. AMD denies the remaining allegations of paragraph 29.

30. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 30 of the Complaint and therefore denies the same.

31. AMD denies the allegations in paragraph 31.

32. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 32 of the Complaint and therefore denies the same.

33. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 33 of the Complaint and therefore denies the same.

34. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 34 of the Complaint and therefore denies the same.

35. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 35 of the Complaint and therefore denies the same.

FACTUAL BACKGROUND

36. AMD repeats and incorporates by reference its responses to the allegations of paragraphs 1-35 of the Complaint as if fully set forth herein.

37. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 37 of the Complaint and therefore denies the same.

38. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 38 of the Complaint and therefore denies the same.

39. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 39 of the Complaint and therefore denies the same.

40. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 40 of the Complaint and therefore denies the same.

41. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 41 of the Complaint and therefore denies the same.

42. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 42 of the Complaint and therefore denies the same.

43. AMD lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 43 of the Complaint and therefore denies the same.

44. AMD admits that it made, used, or tested the MI250 and MI250X Accelerators as of 2021. AMD denies the remaining allegations of paragraph 44.

45. AMD admits that it offered for sale within the United States the MI250X and MI250 Accelerators as of 2021. AMD denies the remaining allegations of paragraph 45.

46. AMD admits that it made, used, tested, or offered for sale the MI210 Accelerator as of 2022. AMD denies the remaining allegations of paragraph 46.

47. AMD admits that the AMD Performance Lab conducted measurement tests as of 2023 on AMD's MI300X and MI300A Accelerators and that a press release in 2023 announced the availability of MI300X and MI300A Accelerators. AMD denies the remaining allegations of paragraph 47.

48. AMD admits that it made, used, offered to sell, sold, or imported into the United States the AMD Instinct MI300X Platform-Accelerated Servers. AMD denies the remaining allegations of paragraph 47.

49. AMD admits that it made, used, offered to sell, sold, or imported into the United States the MI210, MI250, MI250X, MI300X, and MI300A Accelerators. AMD denies the remaining allegations of paragraph 47.

50. AMD does not offer an opinion on ACS's choice of abbreviation.

FIRST CLAIM FOR RELIEF
([ALLEGED] INFRINGEMENT OF THE '768 PATENT)

51. AMD repeats and incorporates by reference its responses to the allegations of paragraphs 1-50 of the Complaint as if fully set forth herein.

52. AMD denies the allegations in paragraph 52.

53. AMD denies the allegations in paragraph 53.

54. AMD denies the allegations in paragraph 54.

55. AMD admits that it published and provided marketing materials, technical specifications, whitepapers, datasheets, user manuals, development and testing information, or other resources on its website pertinent to certain Instinct products. AMD also admits that it provided webpages to inform third parties of certain products, case studies and customer success stories, and supporting documentation for Instinct products. AMD denies the remaining allegations in paragraph 55.

56. AMD denies the allegations in paragraph 56.

57. AMD denies the allegations in paragraph 57.

58. AMD denies the allegations in paragraph 58.

59. AMD denies the allegations in paragraph 59.

SECOND CLAIM FOR RELIEF
([ALLEGED] INFRINGEMENT OF THE '621 PATENT)

60. AMD repeats and incorporates by reference its responses to the allegations of paragraphs 1-50 of the Complaint as if fully set forth herein.

61. AMD denies the allegations in paragraph 61.

62. AMD denies the allegations in paragraph 62.

63. AMD denies the allegations in paragraph 63.

64. AMD admits that it published and provided marketing materials, technical specifications, whitepapers, datasheets, user manuals, development and testing information, or

other resources on its website pertinent to certain Instinct products. AMD also admits that it provided webpages to inform third parties of certain Instinct products, case studies and customer success stories, and supporting documentation for Instinct products. AMD denies the remaining allegations in paragraph 64.

65. AMD denies the allegations in paragraph 65.

66. AMD denies the allegations in paragraph 66.

67. AMD denies the allegations in paragraph 67.

68. AMD denies the allegations in paragraph 68.

THIRD CLAIM FOR RELIEF
([ALLEGED] INFRINGEMENT OF THE '034 PATENT)

69. AMD repeats and incorporates by reference its responses to the allegations of paragraphs 1-50 of the Complaint as if fully set forth herein.

70. AMD denies the allegations in paragraph 70.

71. AMD denies the allegations in paragraph 71.

72. AMD denies the allegations in paragraph 72.

73. AMD admits that it published and provided marketing materials, technical specifications, whitepapers, datasheets, user manuals, development and testing information, or other resources on its website pertinent to certain Instinct products. AMD also admits that it provided webpages to inform third parties of certain Instinct products, case studies and customer success stories, and supporting documentation for Instinct products. AMD denies the remaining allegations in paragraph 73.

74. AMD denies the allegations in paragraph 74.

75. AMD denies the allegations in paragraph 75.

76. AMD denies the allegations in paragraph 76.

77. AMD denies the allegations in paragraph 77.

FOURTH CLAIM FOR RELIEF
([ALLEGED] INFRINGEMENT OF THE '582 PATENT)

78. AMD repeats and incorporates by reference its responses to the allegations of paragraphs 1-50 of the Complaint as if fully set forth herein.

79. AMD denies the allegations in paragraph 79.

80. AMD denies the allegations in paragraph 80.

81. AMD denies the allegations in paragraph 81.

82. AMD admits that it published and provided marketing materials, technical specifications, whitepapers, datasheets, user manuals, development and testing information, or other resources on its website pertinent to certain Instinct products. AMD also admits that it provided webpages to inform third parties of certain Instinct products, case studies and customer success stories, and supporting documentation for Instinct products. AMD denies the remaining allegations in paragraph 82.

83. AMD denies the allegations in paragraph 83.

84. AMD denies the allegations in paragraph 84.

85. AMD denies the allegations in paragraph 85.

86. AMD denies the allegations in paragraph 86.

FIFTH CLAIM FOR RELIEF
([ALLEGED] INFRINGEMENT OF THE '679 PATENT)

87. AMD repeats and incorporates by reference its responses to the allegations of paragraphs 1-50 of the Complaint as if fully set forth herein.

88. AMD denies the allegations in paragraph 88.

89. AMD denies the allegations in paragraph 89.

90. AMD denies the allegations in paragraph 90.

91. AMD admits that it published and provided marketing materials, technical specifications, whitepapers, datasheets, user manuals, development and testing information, or other resources on its website pertinent to certain Instinct products. AMD also admits that it provided webpages to inform third parties of certain Instinct products, case studies and customer success stories, and supporting documentation for Instinct products. AMD denies the remaining allegations in paragraph 91.

92. AMD denies the allegations in paragraph 92.

93. AMD denies the allegations in paragraph 93.

94. AMD denies the allegations in paragraph 94.

95. AMD denies the allegations in paragraph 95.

PRAYER FOR RELIEF

These paragraphs (A)-(G) set forth ACS's statement of requested relief, to which no response is required. AMD denies that ACS is entitled to any relief in this action, as requested in paragraphs (A)-(G) of ACS's Prayer for Relief or otherwise.

AMD'S AFFIRMATIVE AND OTHER DEFENSES

Subject to its responses above, and upon information and belief, AMD alleges and asserts these defenses in response to the allegations in the Complaint, undertaking the burden of proof only as to those defenses deemed affirmative defenses by law, regardless of how such defenses are denominated. In addition to the affirmative defenses described below, subject to the responses above, AMD reserves the right to allege additional defenses pursuant to any scheduling order, that become known through the course of discovery, or otherwise.

FIRST DEFENSE – NON-INFRINGEMENT

1. AMD has not infringed and does not infringe (i) directly, either literally or under the doctrine of equivalents; (ii) indirectly by contributing to infringement by others, either literally or under the doctrine of equivalents; and/or (iii) indirectly by inducing others to infringe, either literally or under the doctrine of equivalents, any valid and enforceable claim of the Asserted Patent, willfully or otherwise.

SECOND DEFENSE – INVALIDITY

2. One or more claims of the Asserted Patent are invalid for failure to meet the conditions of patentability and/or otherwise comply with the requirements of 35 U.S.C. § 101 et seq., including, but not limited to, 35 U.S.C. §§ 101, 102, 103, and/or 112.

THIRD DEFENSE – EQUITABLE DOCTRINES

3. ACS's claims are barred, in whole or in part, by the doctrine of waiver, acquiescence, estoppel, and/or patent misuse.

FOURTH DEFENSE – STATUTE OF LIMITATIONS

4. ACS's recovery for any infringement of the Asserted Patents that it might establish is limited to any established infringement occurring no more than six years before the filing of this lawsuit, pursuant to 35 U.S.C. § 286.

FIFTH DEFENSE – LACK OF MARKING

5. ACS's recovery for alleged infringement of the Asserted Patents, if any, is limited to alleged infringement committed after ACS provided actual or constructive notice of infringement under 35 U.S.C. § 287.

SIXTH DEFENSE – NO WILLFUL INFRINGEMENT

6. ACS fails to state a claim for relief against AMD for enhanced or increased damages for willful infringement.

SEVENTH DEFENSE – NO EXCEPTIONAL CASE

7. ACS fails to state a claim for relief against AMD for an exceptional case under 35 U.S.C. § 285.

EIGHTH DEFENSE – NO COSTS

8. ACS is barred by 35 U.S.C. § 288 from recovering any costs associated with this lawsuit.

NINTH DEFENSE – ABSENCE OF DAMAGES

9. ACS has not suffered and will not suffer any injury or damages as a result of AMD's alleged conduct.

TENTH DEFENSE – PROSECUTION HISTORY ESTOPPEL

10. One or more claims of the Asserted Patents are limited in whole or in part by the text of the Asserted Patents and prosecution histories of the Patents-in-Suit and related patents such that ACS is estopped, or otherwise precluded, from asserting that the claim is infringed by AMD, literally or by equivalents .

ELEVENTH DEFENSE – LACK OF STANDING

11. To the extent that ACS was not the sole and total owner of all substantial rights in any of the Asserted Patents as of the filing date of the Complaint, ACS lacks standing to bring one or more claims in this lawsuit.

TWELFTH DEFENSE – EXHAUSTION

12. ACS's claims are barred, in whole or in part, by the doctrine of patent exhaustion.

THIRTEENTH DEFENSE – LACHES AND UNCLEAN HANDS

13. ACS is barred, in whole or in part, under principles of equity, including laches, prosecution laches, and/or unclean hands. ACS is also barred by issue preclusion from reasserting

or altering its, or its predecessor-in-interest's, positions on factual and legal issues that were previously adjudicated.

FOURTEENTH DEFENSE – FAILURE TO STATE A CLAIM

14. ACS has failed to plead its claims with sufficient specificity or factual support to place AMD on notice of the claims ACS is asserting against AMD, such that ACS has failed to state any claim upon which relief can be granted.

FIFTEENTH DEFENSE – LICENSE AND COVENANT NOT TO SUE

15. ACS's claims for relief, in whole or in part, are precluded to the extent any of the claims of the Asserted Patents are subject to a license, prior settlement, and/or covenant not to sue, express and/or implied.

RESERVATION OF ADDITIONAL DEFENSES

16. AMD reserves all affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, the Patent Laws of the United States, and any other defenses at law or in equity that may exist now or that may be available in the future based on discovery and further factual investigation in this action.

PRAYER FOR RELIEF

WHEREFORE, AMD prays for the following relief:

- A. Dismissal with prejudice of Plaintiff's Complaint in its entirety;
- B. Denial of all remedies sought by Plaintiff in the Complaint;
- C. Declaration that AMD does not infringe, and has not infringed, any claim of the Asserted Patents, either directly or indirectly, literally or under the doctrine of equivalents, willfully, or otherwise;

D. Declaration that all claims of the Asserted Patents are invalid for failing to comply with one or more of the conditions for patentability set forth in Title 35 of the United States Code, including, without limitation, §§ 101, 102, 103, 112, and/or 116;

E. Declaration that the Asserted Patents is unenforceable against AMD in whole or in part under the doctrines of waiver, acquiescence, equitable estoppel, exhaustion, license, settlement, covenant not to sue, unclean hands, patent misuse, prosecution history estoppel, and/or Plaintiff's failure to comply with 35 U.S.C. § 287;

F. Declaration that this is not an exceptional case pursuant to 35 U.S.C. § 285, awarding AMD its costs and expenses in this action, including reasonable attorneys' fees; and

G. Granting such other and additional relief to AMD as this Court deems just and proper.

JURY DEMAND

AMD demands a jury trial of all issues so triable.

Dated: January 8, 2025

Respectfully submitted,

WINSTON & STRAWN LLP

/s/ Thomas M. Melsheimer

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Counsel for Advanced Micro Devices, Inc.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document has been on counsel of record who are deemed to have consented to electronic service on January 8, 2025 via electronic filing using the Court's CM/ECF system.

/s/ Thomas M. Melsheimer _____

Thomas M. Melsheimer