

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
MIDLAND/ODESSA DIVISION**

PALISADE TECHNOLOGIES, LLP,

*Plaintiff,*

v.

MICRON TECHNOLOGY, INC. and  
MICRON SEMICONDUCTOR  
PRODUCTS, INC.,

*Defendants.*

Civil Action No. 7:24-cv-00262-DC-DTG

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**PLAINTIFF PALISADE TECHNOLOGIES, LLP’S OBJECTIONS AND RESPONSES  
TO DEFENDANTS’ FIRST SET OF INTERROGATORIES (NOS. 1-17)**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedures, Plaintiff Palisade Technologies, LLP (“Plaintiff” or “Palisade”) provides the following responses and objections, where applicable and warranted, to Defendants Micron Technology, Inc. and Micron Semiconductor Products, Inc., (“Defendants,” “Defendant,” or “Micron”) First Set of Interrogatories (Nos. 1-17).

**GENERAL OBJECTIONS**

The following general objections apply to, and are incorporated by reference in, the Response to each and every interrogatory. Palisade’s specific objections to any interrogatory are not intended to preclude, override, or withdraw any of the general objections to that interrogatory.

1. Plaintiff objects to the interrogatories to the extent they call for information protected by: (i) the attorney-client privilege; (ii) the work product doctrine; (iii) the common interest privilege; or (iv) any other privilege or protection from disclosure afforded by state or federal law. Plaintiff will provide only such responsive information that is not subject to any such

privilege or protection. No waiver of any privilege, doctrine, or immunity is intended by or should be construed from the responses given herein.

2. Plaintiff objects to each interrogatory, and to Defendant's definitions and instructions, to the extent they call for the production of information or documents that are protected from discovery by the attorney-client privilege or work product doctrine, or that are otherwise protected from disclosure under the Federal Rules of Civil Procedure, the Federal Rules of Evidence, the Local Rules, any applicable orders or other rules of the Court, or relevant statutory or case law. Inadvertent disclosure of any such information shall not be deemed a waiver of any privilege or immunity.

3. Plaintiff objects to each interrogatory to the extent it calls for or seeks identification of documents based on legal conclusions, presents questions of pure law, or calls for expert opinion.

4. Plaintiff objects to each interrogatory to the extent it exceeds the permissible number of interrogatories, including subparts.

5. Plaintiff objects to each interrogatory to the extent it calls upon Plaintiff to disclose or analyze documents or other information that is not within the possession, custody, or control of Plaintiff, or to prepare any document or other information that does not already exist.

6. Plaintiff objects to each interrogatory to the extent it calls for confidential or proprietary information of any individual or entity other than Plaintiff.

7. Plaintiff objects to each interrogatory to the extent it seeks production of information or documents that are in the public domain and, therefore, of no greater burden for Defendant's than Plaintiff to obtain.

8. Plaintiff objects to each interrogatory as overbroad, unduly burdensome, and calling for information that is neither relevant to any party's claim or defense nor proportional to the needs of the case nor reasonably calculated to lead to the discovery of admissible evidence.

9. Plaintiff objects to each interrogatory as overbroad, unduly burdensome, and calling for information that is neither relevant to any party's claim or defense nor proportional to the needs of the case nor reasonably calculated to lead to the discovery of admissible evidence to the extent it calls for information unrelated to the Asserted Patents, the alleged patented technology, the features of the products accused of infringement, or any relevant issue in this action.

10. Plaintiff objects to each interrogatory as overbroad, unduly burdensome, and calling for information that is neither relevant to any party's claim or defense nor proportional to the needs of the case nor reasonably calculated to lead to the discovery of admissible evidence to the extent the interrogatory seeks identification of "every" or "all" facts, documents, persons, evidence, or bases, or that purports to require Plaintiff to marshal all evidence concerning any issue in dispute. Consistent with its obligations under the Federal Rules of Civil Procedure, Plaintiff will conduct a reasonable search and investigation, and will make a reasonable production of responsive documents and/or information at the appropriate stage of discovery proportional to the needs of the case.

11. Plaintiff objects to each interrogatory to the extent that it seeks information that Plaintiff is under an obligation to a third party or court order not to disclose. Plaintiff will disclose such responsive, relevant, non-privileged information in accordance with the Protective Order in this litigation, and after complying with Plaintiff's obligations to the third party and/or court.

12. Plaintiff objects to each interrogatory as premature to the extent it calls for contentions, expert discovery, claim construction information, or other information or documents in advance of the dates set out in any applicable scheduling orders of the Court, the Local rules of this Court, or any applicable orders or other rules of the Court.

13. Plaintiff objects to each interrogatory, and to Defendant's definitions and instructions, to the extent they purport to alter the plain meaning or scope of any specific term, phrase, or interrogatory on the grounds that such alteration renders the interrogatory vague, ambiguous, overbroad, and uncertain.

14. Plaintiff objects to Defendant's definition of "Plaintiff," "Palisade," "You," or "Your" and to each interrogatory using such terms, to the extent that that definition includes any persons or entities other than Plaintiff who are not parties to this action, and to the extent that they call for the production of information or documents that is protected from discovery by the attorney-client privilege or work product doctrine, or that is otherwise protected from disclosure under the Federal Rules of Civil Procedure, the Federal Rules of Evidence, the Local Rules, any applicable orders of the Court, or relevant statute or case law. Inadvertent disclosure of any such information shall not be deemed a waiver of any privilege or immunity. Consistent with its obligations under the Federal Rules of Civil Procedure, Plaintiff will conduct a reasonable search and investigation, and will make a reasonable production of responsive documents and/or information that is not protected from discovery by the attorney-client privilege or work product doctrine, or that is otherwise protected from disclosure under the Federal Rules of Civil Procedure, the Federal Rules of Evidence, the Local Rules, any applicable orders of the Court, or relevant statutory or case law, at the appropriate stage of discovery proportional to the needs of the case.

15. Plaintiff objects to Defendant’s definition of “Prior Art,” and to each interrogatory using that term, as vague, ambiguous, overbroad, unduly burdensome, and calling for information that is neither relevant to any party’s claim or defense nor proportional to the needs of the case nor reasonably calculated to lead to the discovery of admissible evidence to the extent that definition includes patents, printed publications, knowledge, use, sale, or offers for sale, or other acts or events, not specifically identified in Defendants’ August 22, 2025 Invalidity Contentions.

16. Plaintiff objects to Defendants’ definitions of “communication” and “document” to the extent they seek to require collection and production of electronic mail or other forms of electronic correspondence.

17. Plaintiff objects to Defendants’ definitions of “document” and similar phrases, and to each interrogatory using such terms, as overbroad to the extent that it includes documents or things that are outside the scope contemplated by Federal Rules of Civil Procedure 26 and 34.

18. Plaintiff objects to Defendants’ definitions of “identify” and similar phrases, and to each interrogatory using such terms, to the extent that such terms render the interrogatory overbroad, vague, or ambiguous, or require subjective judgment and speculation of the part of Plaintiff and to the extent that such interrogatories seek to require Plaintiff to provide information above and beyond the information contemplated under the Federal Rules of Civil Procedure, the Federal Rules of Evidence, the Local Rules of this Court, any applicable orders or other rules of the Court, agreements between the parties, or relevant statutory or case law.

19. Plaintiff objects to Defendants’ definitions of “relating”, “related”, or “relates,” and similar phrases, and to each interrogatory using such terms, to the extent that such terms render the interrogatory overbroad, vague, or ambiguous, or require subjective judgment and speculation on the part of Plaintiff.

20. Plaintiff does not waive the right to object to the admissibility into evidence of any documents or information provided in response to the interrogatories. Plaintiff further does not waive the right to raise all questions of authenticity, relevancy, materiality, and privilege for any purpose with regard to the information provided in response to the interrogatories, which may arise in any subsequent proceeding and/or the trial of this or any other action. Moreover, the assertion by Plaintiff of various general and specific objections is not a waiver of other objections that might be applicable or become so at some future time.

21. Plaintiff responds to the interrogatories based solely on its current knowledge, understanding, and belief with respect to the facts and information available to Plaintiff as of the date of these Objections and Responses. Discovery is ongoing. Additional discovery, investigation, or analysis may lead to additions to, changes in, or other modifications of these Objections and Responses. Plaintiff reserves the right to amend and/or supplement these Objections and Responses consistent with the Federal Rules of Civil Procedure, the Local Rules, and any applicable orders or other rules of the Court. Plaintiff further reserves the right to produce evidence of any subsequently discovered documents or facts, and to present evidence of subsequently discovered documents or facts in depositions, at a hearing, at trial, and in support of, or in opposition to, any motion. The responses herein are made in a good faith effort to comply with the provisions of Federal Rule of Civil Procedure 34, and to supply such responsive information as it exists and is presently within Plaintiff's possession, custody, or control, but are in no way to be deemed to be to the prejudice of Plaintiff in relation to further discovery, research, and analysis.

22. These General Objections are hereby incorporated into each and every specific response to the interrogatories set forth below as if fully set forth therein.

## **SPECIFIC OBJECTIONS AND RESPONSES**

Subject to the foregoing General Objections, Plaintiff responds to Defendants' interrogatories as follows:

### **INTERROGATORY NO.1**

For each Asserted Claim, describe with particularity the earliest alleged Invention Date to which Palisade contends the claim is entitled and the basis for such contention, including all facts and circumstances regarding when, where, how and by whom the subject matter described by that claim was first conceived, reduced to practice, and any alleged diligence (or lack thereof) from conception to reduction to practice, as well as an identification of any and all relevant documents and things by production number and individuals most knowledgeable.

### **OBJECTIONS AND RESPONSES TO INTERROGATORY NO. 1**

In addition to its General Objections, which are incorporated herein by reference, Plaintiff objects to this interrogatory on the basis that it consists of multiple sub-parts and is, in fact, multiple interrogatories designed to exceed the discovery limits imposed by this Court and the Federal Rules. This interrogatory includes at least five discrete subparts as it asks Plaintiff to identify the earliest alleged Invention Date for five discrete patent families, identify all documents that support Plaintiff's contentions, and identify the persons most knowledgeable of the facts and Documents identified in Plaintiff's response. Plaintiff objects to this interrogatory as improper to the extent that it attempts to restrict conception to the date of reduction to practice. Plaintiff also objects to this interrogatory as overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it requires Plaintiff to present responsive information in a form that is not required by the Federal Rules, Local Rules, Rules of this Court, or applicable Court Order. Plaintiff further objects to this interrogatory to the extent it seeks documents or information protected from disclosure under the attorney-client privilege or work product doctrine, including the impressions

and strategies of Plaintiff's counsel. Plaintiff further objects to this interrogatory as improperly seeking expert opinions and discovery in advance of the expert reporting and discovery deadlines set forth in the Scheduling Order. Plaintiff further objects to this interrogatory to the extent it calls for a legal conclusion or interpretation. Furthermore, because this interrogatory is a contention interrogatory, Plaintiff is under no obligation to provide a final answer to this interrogatory at this juncture of the case until it has obtained fulsome discovery on the issues to which the interrogatories relate. *See Woods v. DeAngelo Marine Exhaust, Inc.*, 692 F.3d 1272, 1280 (Fed. Cir. 2012) (“[A]nswers to [contention] interrogatories may not come into focus until the end of discovery.”); *O2 Micro Int’l Ltd. v. Monolithic Power Sys., Inc.*, 467 F.3d 1355, 1365 (Fed. Cir. 2006) (“Answers to [contention] interrogatories are often postponed until the close of discovery.”); *Heredia v. Sunrise Senior Living LLC*, No. 8:18-cv-01974-JLS (JDEx), 2020 U.S. Dist. LEXIS 137763, at \*14 (C.D. Cal. 2020) (“Courts using their Rule 33(a)(2) discretion generally disfavor contention interrogatories asked before discovery is undertaken.”) (quoting *In re eBay Seller Antitrust Litig.*, 2008 WL 5212170, at \*1 (N.D. Cal. Dec. 11, 2008)); *Cywee Grp. v. Samsung Elecs., Co.*, No. 2:17-CV-00140-RWS-RSP, 2018 U.S. Dist. LEXIS 239168, at \*6-7 (E.D. Tex. 2018) (“This Interrogatory seeks Defendants’ contention as to which products are comparable for purposes of a hypothetical-negotiation analysis. . . . The Court will therefore deny the motion as to this Interrogatory, expecting that Defendants will respond at such time as they or their expert actually form such a belief.”).

Subject to and without waiving any General Objections or Specific Objections, Plaintiff responds as follows:

The asserted claims of the '962 patent are entitled to a priority date at least as early as May 12, 2009.

The asserted claims of the '051 patent are entitled to a priority date at least as early as Nov. 20, 2007.

The asserted claims of the '838 patent are entitled to a priority date at least as early as May 8, 2014.

The asserted claims of the '314 patent are entitled to a priority date at least as early as October 10, 2014.

The asserted claims of the '974 patent are entitled to a priority date at least as early as July 22, 2015.

Plaintiff believes that further responsive information may be in the possession, custody, or control of third parties such as the prior assignees of the Asserted Patents. Pursuant to Rule 33(d), Plaintiff further directs Defendant to its Infringement Contentions and any amendments thereto. Plaintiff further directs Defendant to its forthcoming expert disclosures, which will be served in accordance with the Scheduling Order are incorporated by reference.

Plaintiff's investigation is ongoing, and Plaintiff reserves the right to modify or supplement the response to this interrogatory as discovery continues.

## **INTERROGATORY NO. 2**

For each Asserted Claim for which Palisade relies on a provisional patent application to establish the patent's Priority Date, explain and identify on a limitation-by-limitation basis in chart or table format by column and line number(s) (or by page and paragraph if the application or document does not include line numbers) the portion(s) of each provisional patent application that You contend provides a written description of and enables the Asserted Claim (separately addressing each requirement) in the manner provided by 35 U.S.C. § 112, Paragraph 1.

## **OBJECTIONS AND RESPONSES TO INTERROGATORY NO. 2**

In addition to its General Objections, which are incorporated herein by reference, Plaintiff objects to this interrogatory on the basis that it consists of multiple sub-parts and is, in fact, multiple interrogatories designed to exceed the discovery limits imposed by this Court and the Federal Rules. This interrogatory includes at least five discrete subparts as it asks Plaintiff to (1) identify the earliest alleged Invention Date for five discrete patent families. Plaintiff objects to this interrogatory to the extent that it purports to require Plaintiff to marshal all of its available proof or to limit the evidence that may be presented at trial. Plaintiff further objects to this interrogatory as improperly seeking expert opinions and discovery in advance of the expert reporting and discovery deadlines set forth in the Scheduling Order. Plaintiff further objects to this interrogatory to the extent it calls for a legal conclusion or interpretation. Furthermore, because this interrogatory is a contention interrogatory, Plaintiff is under no obligation to provide a final answer to this interrogatory at this juncture of the case until it has obtained fulsome discovery on the issues to which the interrogatories relate. *See Woods v. DeAngelo Marine Exhaust, Inc.*, 692 F.3d 1272, 1280 (Fed. Cir. 2012) (“[A]nswers to [contention] interrogatories may not come into focus until the end of discovery.”); *O2 Micro Int’l Ltd. v. Monolithic Power Sys., Inc.*, 467 F.3d 1355, 1365 (Fed. Cir. 2006) (“Answers to [contention] interrogatories are often postponed until the close of discovery.”); *Heredia v. Sunrise Senior Living LLC*, No. 8:18-cv-01974-JLS (JDEx), 2020 U.S. Dist. LEXIS 137763, at \*14 (C.D. Cal. 2020) (“Courts using their Rule 33(a)(2) discretion generally disfavor contention interrogatories asked before discovery is undertaken.”) (quoting *In re eBay Seller Antitrust Litig.*, 2008 WL 5212170, at \*1 (N.D. Cal. Dec. 11, 2008)); *Cywee Grp. v. Samsung Elecs., Co.*, No. 2:17-CV-00140-RWS-RSP, 2018 U.S. Dist. LEXIS 239168, at \*6-7 (E.D. Tex. 2018) (“This Interrogatory seeks Defendants’ contention as to which products are

comparable for purposes of a hypothetical-negotiation analysis. . . . The Court will therefore deny the motion as to this Interrogatory, expecting that Defendants will respond at such time as they or their expert actually form such a belief.”). Plaintiff objects to this interrogatory as vague and ambiguous and, as a result, overly broad, unduly burdensome, and not proportional to the needs of the case to the extent that seeks to dictate the format in which the response must be provided.

Subject to and without waiving any General Objections or Specific Objections, Plaintiff responds as follows:

The Asserted Patents do not claim priority to a provisional application.

Plaintiff’s investigation is ongoing, and Plaintiff reserves the right to modify or supplement the response to this interrogatory as discovery continues.

**INTERROGATORY NO. 3**

For each Asserted Claim that Palisade contends Micron infringes jointly with another party, identify the complete factual and legal bases for Palisade’s contention, including: (1) the identity of the other party with whom Micron allegedly jointly infringes; (2) what instructions (if any) Micron provides to the other party; (3) what contractual relationships (if any) Micron has with the other party; (4) the claim element(s) of the Asserted Claim that the other party allegedly performs; (5) how Micron allegedly directs or controls the other party’s performance of that claim element(s), including how Micron allegedly conditions participation in an activity or receipt of a benefit upon performance of that claim element(s) (including identification of the alleged benefit or activity) and establishes the manner or timing of the performance of that claim element(s); and (6) the basis, if any, for any contention by Palisade that Micron and the other party form a joint enterprise.

**OBJECTIONS AND RESPONSES TO INTERROGATORY NO. 3**

In addition to its General Objections, which are incorporated herein by reference,

Plaintiff objects to this interrogatory insofar as it purports to require Plaintiff to marshal all of its available proof or to otherwise limit the evidence Plaintiff may present. Plaintiff objects to this interrogatory as premature in that it seeks “the complete factual and legal bases” before the close of discovery and before the expert reporting deadlines. Plaintiff also objects to this interrogatory as overly broad, unduly burdensome, and not proportional to the needs of the case. Plaintiff further objects to the extent this interrogatory seeks information that is not in its possession, custody, or control such as Micron’s contractual relationships. Furthermore, because this interrogatory is a contention interrogatory, Plaintiff is under no obligation to provide a final answer to this interrogatory at this juncture of the case until it has obtained fulsome discovery on the issues to which the interrogatories relate. *See Woods v. DeAngelo Marine Exhaust, Inc.*, 692 F.3d 1272, 1280 (Fed. Cir. 2012) (“[A]nswers to [contention] interrogatories may not come into focus until the end of discovery.”); *O2 Micro Int’l Ltd. v. Monolithic Power Sys., Inc.*, 467 F.3d 1355, 1365 (Fed. Cir. 2006) (“Answers to [contention] interrogatories are often postponed until the close of discovery.”); *Heredia v. Sunrise Senior Living LLC*, No. 8:18-cv-01974-JLS (JDEX), 2020 U.S. Dist. LEXIS 137763, at \*14 (C.D. Cal. 2020) (“Courts using their Rule 33(a)(2) discretion generally disfavor contention interrogatories asked before discovery is undertaken.”) (quoting *In re eBay Seller Antitrust Litig.*, 2008 WL 5212170, at \*1 (N.D. Cal. Dec. 11, 2008)); *Cywee Grp. v. Samsung Elecs., Co.*, No. 2:17-CV-00140-RWS-RSP, 2018 U.S. Dist. LEXIS 239168, at \*6-7 (E.D. Tex. 2018) (“This Interrogatory seeks Defendants’ contention as to which products are comparable for purposes of a hypothetical-negotiation analysis. . . . The Court will therefore deny the motion as to this Interrogatory, expecting that Defendants will respond at such time as they or their expert actually form such a belief.”).

Subject to and without waiving any General Objections or Specific Objections, Plaintiff responds as follows:

Plaintiff's infringement theories and evidence thereof are set forth in its Infringement Contentions, and any amendments thereto, which are hereby incorporated by reference. Plaintiff also refers to and incorporates by reference its forthcoming expert disclosures together with the evidence and documents identified therein. While discovery is ongoing, individuals expected to have knowledge of responsive information include (but are not limited to) the parties' experts and employees. Plaintiff further refers Defendant to its Complaint and any amendments thereto. Plaintiff further refers Defendant to Plaintiff's Initial Disclosures, and any amendments thereto, which are hereby incorporated by reference.

Plaintiff's investigation is ongoing, and Plaintiff reserves the right to modify or supplement the response to this interrogatory as discovery continues.

**INTERROGATORY NO. 4**

For each Asserted Claim that Palisade contends Micron induces or contributes to infringement, identify the complete factual and legal bases for Palisade's allegation, including without limitation: an identification of the other party who is a direct infringer; an identification of the other party's acts of direct infringement; an identification of the time period over which Palisade claims that Micron has induced or contributed to infringement; the specific acts or components of Micron that constitute inducement or contribution to infringement by another party; the date and circumstances by which Palisade contends Micron received notice of alleged infringement; and an identification of all individuals at Micron that Palisade claims knew of or were willfully blind to the claim(s).

#### **OBJECTIONS AND RESPONSES TO INTERROGATORY NO. 4**

In addition to its General Objections, which are incorporated herein by reference, Plaintiff objects to this interrogatory insofar as it purports to require Plaintiff to marshal all of its available proof or to otherwise limit the evidence Plaintiff may present. Plaintiff objects to this interrogatory as premature in that it seeks “the complete factual and legal bases” before the close of discovery and before the expert reporting deadlines. Plaintiff also objects to this interrogatory as overly broad, unduly burdensome, and not proportional to the needs of the case. Furthermore, because this interrogatory is a contention interrogatory, Plaintiff is under no obligation to provide a final answer to this interrogatory at this juncture of the case until it has obtained fulsome discovery on the issues to which the interrogatories relate. *See Woods v. DeAngelo Marine Exhaust, Inc.*, 692 F.3d 1272, 1280 (Fed. Cir. 2012) (“[A]nswers to [contention] interrogatories may not come into focus until the end of discovery.”); *O2 Micro Int’l Ltd. v. Monolithic Power Sys., Inc.*, 467 F.3d 1355, 1365 (Fed. Cir. 2006) (“Answers to [contention] interrogatories are often postponed until the close of discovery.”); *Heredia v. Sunrise Senior Living LLC*, No. 8:18-cv-01974-JLS (JDEx), 2020 U.S. Dist. LEXIS 137763, at \*14 (C.D. Cal. 2020) (“Courts using their Rule 33(a)(2) discretion generally disfavor contention interrogatories asked before discovery is undertaken.”) (quoting *In re eBay Seller Antitrust Litig.*, 2008 WL 5212170, at \*1 (N.D. Cal. Dec. 11, 2008)); *Cywee Grp. v. Samsung Elecs., Co.*, No. 2:17-CV-00140-RWS-RSP, 2018 U.S. Dist. LEXIS 239168, at \*6-7 (E.D. Tex. 2018) (“This Interrogatory seeks Defendants’ contention as to which products are comparable for purposes of a hypothetical-negotiation analysis. . . . The Court will therefore deny the motion as to this Interrogatory, expecting that Defendants will respond at such time as they or their expert actually form such a belief.”).

Subject to and without waiving any General Objections or Specific Objections, Plaintiff responds as follows:

Plaintiff's infringement theories and evidence thereof are set forth in its Infringement Contentions, and any amendments thereto, which are hereby incorporated by reference. Plaintiff also refers to and incorporates by reference its forthcoming expert disclosures together with the evidence and documents identified therein. While discovery is ongoing, individuals expected to have knowledge of responsive information include (but are not limited to) the parties' experts and employees. Plaintiff further refers Defendant to its Complaint and any amendments thereto. Plaintiff further refers Defendant to Plaintiff's Initial Disclosures, and any amendments thereto, which are hereby incorporated by reference.

Plaintiff's investigation is ongoing, and Plaintiff reserves the right to modify or supplement the response to this interrogatory as discovery continues.

#### **INTERROGATORY NO. 5**

For each Asserted Claim that Micron allegedly willfully infringes, identify the complete factual and legal bases for Palisade's allegation, including without limitation, an identification of the time period over which Palisade claims that Micron has willfully infringed, the date and circumstances by which Palisade contends Micron received notice of infringement, and an identification of all individuals at Micron that Palisade claims knew of or were willfully blind to the claim(s).

#### **OBJECTIONS AND RESPONSES TO INTERROGATORY NO. 5**

In addition to its General Objections, which are incorporated herein by reference, Plaintiff objects to this interrogatory insofar as it purports to require Plaintiff to marshal all of its available proof or to otherwise limit the evidence Plaintiff may present. Plaintiff objects on the ground and

to the extent that the interrogatory purports to require the disclosure of privileged attorney-client communications, party communications, attorney work product and/or mental impression of Plaintiff's attorneys that are otherwise protected from disclosure under applicable privileges, laws or rules. Plaintiff further objects to this interrogatory as calling for a legal conclusion.

Subject to and without waiving any General Objections or Specific Objections, Plaintiff responds as follows:

Defendant has been aware that its products infringe claims of one or more of the Asserted Patents since the service of the Complaint in this matter. Despite such notice, Defendant continued and continues to sell the accused products and infringe the Asserted Patents. Defendant's actions demonstrate at a minimum that it continued its infringing activity despite an objectively high likelihood that its actions constituted infringement of a valid patent and that Defendant had actual knowledge of this risk.

Plaintiff's investigation is ongoing, and Plaintiff reserves the right to modify or supplement the response to this interrogatory as discovery continues.

**INTERROGATORY NO. 6**

Identify and describe any commercial embodiment of the Asserted Patents made, used, sold, offered for sale, or imported into the United States by any party who has owned (partially or wholly), been assigned, or licensed the Asserted Patents, including in such description any sale or offer for sale of such commercial embodiments, including without limitation, the quantity of sales, revenue derived from such sales, identity of purchasers, and the dates of first and last manufacture and sale of each such commercial embodiment.

## **OBJECTIONS AND RESPONSES TO INTERROGATORY NO. 6**

In addition to its General Objections, which are incorporated herein by reference, Plaintiff objects to this interrogatory to the extent it would require the disclosure of information that is confidential to a third party. Plaintiff further objects to this interrogatory to the extent it seeks information that if it exists, is protected from disclosure by the attorney-client privilege, common interest privilege, work product doctrine, and/or other applicable privileges and/or exemptions. Plaintiff further objects to this interrogatory to the extent it seeks information that is not relevant, or not readily accessible, including offers to grant rights by third parties. Plaintiff further objects to the extent this interrogatory seeks information that is not in its possession, custody, or control such as offers by prior assignees. Plaintiff further objects to this interrogatory as improperly seeking expert opinions and discovery in advance of the expert reporting and discovery deadlines set forth in the Scheduling Order.

Subject to and without waiving any General Objections or Specific Objections, Plaintiff responds as follows:

Plaintiff is not aware of a commercial embodiment of the Asserted Patents made, used, sold, offered for sale, or imported into the United States by any party who has owned (partially or wholly), been assigned, or licensed the Asserted Patents.

Plaintiff's investigation is ongoing, and Plaintiff reserves the right to modify or supplement the response to this interrogatory as discovery continues.

## **INTERROGATORY NO. 7**

For each product made, used, sold, offered for sale, or imported by Palisade or any prior assignees or licensees of the Asserted Patents, describe whether and how Palisade or any prior assignees or licensees have satisfied the marking requirements of 35 U.S.C. § 287, including

whether (1) products that Palisade had accused of infringement are now licensed or subject of a covenant not to sue under the Asserted Patents and, if so, (2) whether those products are marked with the Asserted Patents, (3) what efforts Palisade has made to ensure that its licensees marked the licensed products with the number of the Asserted Patents, and (4) whether Palisade's license or covenant not to sue agreements with the licensees include any provisions relating to marking.

#### **OBJECTIONS AND RESPONSES TO INTERROGATORY NO. 7**

In addition to its General Objections, which are incorporated herein by reference, Plaintiff objects to this interrogatory on the basis that it seeks information from anyone other than Plaintiff. Plaintiff objects to this interrogatory to the extent it attempts to improperly shift Defendant's burdens of proof or persuasion to Plaintiff. Defendant bears the initial burden of identifying products that allegedly require marking under 35 U.S.C. § 287. *Arctic Cat Inc. v. Bombardier Rec. Prods.*, 876 F.3d 1350, 1368 (Fed. Cir. 2017) (“[A]n alleged infringer who challenges the patentee's compliance with § 287 bears an initial burden of production to articulate the products it believes are unmarked ‘patented articles’ subject to § 287.”). Plaintiff further objects to this interrogatory as vague and ambiguous as it is unclear what the phrase “or are otherwise unrelated to the subject matter of the Asserted Patents, then state the basis for your contention” is intended to capture. To the extent, this interrogatory seeks information that is unrelated to the subject matter of the Asserted Patents, Plaintiff objects on the basis that it seeks information that is neither relevant to any party's claims or defenses in this dispute nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiff further objects this interrogatory to the extent it seeks information that is not in Plaintiff's possession, custody or control. Plaintiff further objects to this interrogatory insofar as it purports to require Plaintiff to marshal all of its available proof or to otherwise limit the evidence Plaintiff may present at trial. Plaintiff further objects to this

interrogatory on the basis that it is unbounded in time, and thus seeks information that is not relevant, or not readily accessible. Plaintiff further objects to this interrogatory to the extent it seeks privileged information, including information protected in whole or in part by the work product doctrine, the attorney-client privilege, common interest privilege, or any other applicable privilege or immunity.

Subject to and without waiving any General Objections or Specific Objections, Plaintiff responds as follows:

Defendant bears the initial burden of identifying products that allegedly require marking. Plaintiff is not aware of any such products.

Plaintiff's investigation is ongoing, and Plaintiff reserves the right to modify or supplement the response to this interrogatory as discovery continues.

#### **INTERROGATORY NO. 8**

Identify and describe the complete factual and legal bases for Palisade's contention, if any, that Palisade complied with the constructive and actual notice requirements of 35 U.S.C. § 287, including without limitation, whether Palisade provided Micron with either constructive or actual notice of each of the following before This Action was filed on October 16, 2024: (1) each of the Asserted Patents; (2) alleged infringement of each of the Asserted Patents by Micron; (3) identification of specific accused products; and (4) alleged infringement of each of the Asserted Patents by the Accused Products.

#### **OBJECTIONS AND RESPONSES TO INTERROGATORY NO. 8**

In addition to its General Objections, which are incorporated herein by reference, Plaintiff objects to this interrogatory to the extent it seeks documents or information protected from disclosure under the attorney-client privilege or work product doctrine, including the impressions

and strategies of Plaintiff's counsel. Plaintiff further objects to this interrogatory as improperly seeking expert opinions and discovery in advance of the expert reporting and discovery deadlines set forth in the operative Scheduling Order. Plaintiff further objects to this interrogatory to the extent it calls for a legal conclusion or interpretation. Plaintiff also objects to this interrogatory insofar as it purports to require Plaintiff to marshal all of its available proof or to otherwise limit the evidence Plaintiff may present. Plaintiff also objects to this interrogatory to the extent it seeks information from anyone other than Plaintiff. Furthermore, because this interrogatory is a contention interrogatory, Plaintiff is under no obligation to provide a final answer to this interrogatory at this juncture of the case until it has obtained fulsome discovery on the issues to which the interrogatories relate. *See Woods v. DeAngelo Marine Exhaust, Inc.*, 692 F.3d 1272, 1280 (Fed. Cir. 2012) (“[A]nswers to [contention] interrogatories may not come into focus until the end of discovery.”); *O2 Micro Int’l Ltd. v. Monolithic Power Sys., Inc.*, 467 F.3d 1355, 1365 (Fed. Cir. 2006) (“Answers to [contention] interrogatories are often postponed until the close of discovery.”); *Heredia v. Sunrise Senior Living LLC*, No. 8:18-cv-01974-JLS (JDEx), 2020 U.S. Dist. LEXIS 137763, at \*14 (C.D. Cal. 2020) (“Courts using their Rule 33(a)(2) discretion generally disfavor contention interrogatories asked before discovery is undertaken.”) (quoting *In re eBay Seller Antitrust Litig.*, 2008 WL 5212170, at \*1 (N.D. Cal. Dec. 11, 2008)); *Cywee Grp. v. Samsung Elecs., Co.*, No. 2:17-CV-00140-RWS-RSP, 2018 U.S. Dist. LEXIS 239168, at \*6-7 (E.D. Tex. 2018) (“This Interrogatory seeks Defendants’ contention as to which products are comparable for purposes of a hypothetical-negotiation analysis. . . . The Court will therefore deny the motion as to this Interrogatory, expecting that Defendants will respond at such time as they or their expert actually form such a belief.”).

Subject to and without waiving any General Objections or Specific Objections, Plaintiff responds as follows:

Based on information known by Plaintiff when this response was served, Plaintiff contends Defendant was put on notice under 35 U.S.C. § 287 based on the service of the original complaint in this matter. Plaintiff is presently unaware if any other person or entity previously put Defendant on notice of the asserted patents.

Plaintiff's investigation is ongoing, and Plaintiff reserves the right to modify or supplement the response to this interrogatory as discovery continues.

#### **INTERROGATORY NO. 9**

If Palisade contends that secondary considerations of non-obviousness apply to any Asserted Claim, explain in detail all bases that support or otherwise relate to any such contention for any Asserted Claim, including, but not limited to, the presence or absence of any commercial success, long-felt need, commercial acquiescence, industry recognition, unexpected results, expressions of skepticism, copying, teaching away, successful or failed attempts by others, or simultaneous development, as well as an identification of any and all relevant documents and things by production number and individuals most knowledgeable.

#### **OBJECTIONS AND RESPONSES TO INTERROGATORY NO. 9**

In addition to its General Objections, which are incorporated herein by reference, Plaintiff objects to this interrogatory to the extent it seeks information protected from disclosure by the attorney-client privilege or work product doctrine, including the impressions and strategies of Plaintiff's counsel. Plaintiff further objects to this interrogatory as improperly seeking expert opinions and discovery in advance of the expert reporting and discovery deadlines set forth in the Scheduling Order. Plaintiff further objects to this interrogatory to the extent it calls for a legal

conclusion or interpretation. Plaintiff also objects to this interrogatory to the extent it seeks information from anyone other than Plaintiff. Plaintiff objects to this interrogatory to the extent that it purports to require Plaintiff to marshal all of its available proof or to limit the evidence that may be presented at trial. Plaintiff objects to this interrogatory to the extent it attempts to improperly shift Defendant's burdens of proof or persuasion to Plaintiff. Furthermore, because this interrogatory is a contention interrogatory, Plaintiff is under no obligation to provide a final answer to this interrogatory at this juncture of the case until it has obtained fulsome discovery on the issues to which the interrogatories relate. *See Woods v. DeAngelo Marine Exhaust, Inc.*, 692 F.3d 1272, 1280 (Fed. Cir. 2012) (“[A]nswers to [contention] interrogatories may not come into focus until the end of discovery.”); *O2 Micro Int’l Ltd. v. Monolithic Power Sys., Inc.*, 467 F.3d 1355, 1365 (Fed. Cir. 2006) (“Answers to [contention] interrogatories are often postponed until the close of discovery.”); *Heredia v. Sunrise Senior Living LLC*, No. 8:18-cv-01974-JLS (JDEx), 2020 U.S. Dist. LEXIS 137763, at \*14 (C.D. Cal. 2020) (“Courts using their Rule 33(a)(2) discretion generally disfavor contention interrogatories asked before discovery is undertaken.”) (quoting *In re eBay Seller Antitrust Litig.*, 2008 WL 5212170, at \*1 (N.D. Cal. Dec. 11, 2008)); *Cywee Grp. v. Samsung Elecs., Co.*, No. 2:17-CV-00140-RWS-RSP, 2018 U.S. Dist. LEXIS 239168, at \*6-7 (E.D. Tex. 2018) (“This Interrogatory seeks Defendants’ contention as to which products are comparable for purposes of a hypothetical-negotiation analysis. . . . The Court will therefore deny the motion as to this Interrogatory, expecting that Defendants will respond at such time as they or their expert actually form such a belief.”).

Subject to and without waiving any General Objections or Specific Objections, Plaintiff responds as follows:

Each asserted claim of the Asserted Patents was properly and duly issued in accordance with the patent laws of the United States. More specifically, the United States Patent and Trademark Office evaluated the patentability of each asserted claim and correctly determined that each claim encompass patentable new, useful, and non-obvious subject matter. Accordingly, each asserted claim is presumed valid and as a matter of law, and Defendant bears the burden of proving otherwise by clear and convincing evidence. *Microsoft Corp. v. i4i Ltd. Partnership*, 131 S. Ct. 2238, 2243 (2011) (“[T]he burden of proving invalidity [is] on the attacker. That burden is constant and never changes.”). Defendant has not met its burden. If and when Defendant provides expert disclosures to meet its initial burden, Plaintiff will provide rebuttal expert disclosures as set forth in the schedule governing this case. Plaintiff’s forthcoming expert disclosures addressing validity of the asserted claims (if provided) are incorporated by reference, together with any amendment or supplement, and supporting evidence and documents identified therein. Plaintiff also refers to the documents and references identified in the Asserted Patents and their file histories.

The non-obviousness of the asserted claims is supported by, at least, commercial success as evidenced by the prevalence, adoption, and use, of the inventions embodied in the asserted claims. Plaintiff directs Defendant to Plaintiff’s Complaint, its Infringement Contentions, its Initial Disclosures, and any amendments or supplements thereto, which are hereby incorporated by reference. As noted above, Plaintiff also refers to and incorporates by reference its forthcoming expert disclosures, together with the evidence and documents identified therein.

Plaintiff’s investigation is ongoing, and Plaintiff reserves the right to modify or supplement the response to this interrogatory as discovery continues.

### **INTERROGATORY NO. 10**

Identify all communications between Palisade or any prior assignee on one hand, and any other person or entity on the other hand, regarding actual or potential infringement, licensing, assignment, damages and/or royalties (potential or actual) with respect to the Asserted Patents or Related Patents, including the identity of each person or entity involved, the dates of each such communication, the products at issue, the patents and patent claims at issue, any resulting royalty rate(s), damages or other terms, and the outcome, result, and/or status of such communications, as well as an identification of any and all relevant documents and things by production number and individuals most knowledgeable.

### **OBJECTIONS AND RESPONSES TO INTERROGATORY NO. 10**

In addition to its General Objections, which are incorporated herein by reference, Plaintiff objects to this interrogatory to the extent it seeks information protected from disclosure by the attorney-client privilege or work product doctrine, including the impressions and strategies of Plaintiff's counsel. Plaintiff also objects to this interrogatory to the extent it seeks information from anyone other than Plaintiff. Plaintiff objects to this interrogatory on the basis that it consists of multiple sub-parts and is, in fact, multiple interrogatories designed to exceed the discovery limits imposed by this Court and the Federal Rules. This interrogatory includes at least four discrete subparts as it asks Plaintiff to identify and describe (1) each instance where any communications concerning infringement of the asserted or related patents, (2) each instance where any communications concerning licensing of the asserted or related patents, (3) each instance where any communications concerning assignment of the asserted or related patents, and (4) each instance where any communications concerning damages and/or royalties of the asserted or related patents. Plaintiff further objects to this interrogatory as overly broad, unduly

burdensome, and not proportional to the needs of the case because it seeks information about offers to license or sell patents that did not result in a license or sale. Plaintiff also objects to this interrogatory as overly broad, unduly burdensome, and not proportional to the needs of the case because it seeks responsive information related to patents that are not asserted in this matter. Plaintiff objects to this interrogatory as overly broad, unduly burdensome, not proportional to the needs of the case insofar as it purports to require Plaintiff to search for and identify e-mail communications.

Subject to and without waiving any General Objections or Specific Objections, Plaintiff responds as follows:

Plaintiff filed this Action on October 16, 2024.

Plaintiff's investigation is ongoing, and Plaintiff reserves the right to modify or supplement the response to this interrogatory as discovery continues.

#### **INTERROGATORY NO. 11**

Identify and describe in detail each agreement or instance where Palisade or any Prior Assignee of the Asserted Patents has conveyed or offered to convey any rights in the Asserted Patents or any Related Patents, whether individually or as part of a portfolio, including identifying any agreements selling or buying the patents and any agreements granting licenses, covenants not to sue, or releases to the patents, and list any and all relevant documents and things by production number (including any agreements produced by Palisade or any party) and individuals most knowledgeable.

#### **OBJECTIONS AND RESPONSES TO INTERROGATORY NO. 11**

Plaintiff objects to this interrogatory on the basis that is overly broad, unduly burdensome, and unlikely to lead to the discovery of relevant information because it seeks responsive

information related to patents that are not asserted in this matter. Plaintiff further objects to this interrogatory to the extent it calls for a legal conclusion or interpretation.

Subject to and without waiving any General Objections or Specific Objections, Plaintiff responds as follows:

Pursuant to Rule 33(d), information responsive to this interrogatory can be found by reviewing the following documents: PALISADE\_00001261-80.

Plaintiff's investigation is ongoing, and Plaintiff reserves the right to modify or supplement the response to this interrogatory as discovery continues.

**INTERROGATORY NO. 12**

Describe in detail all facts and circumstances regarding Palisade's standing to bring suit against Micron on the Asserted Patents, including identifying the current and past owners of the Asserted Patents, any assignments of the Asserted Patents, and any grant or offer to grant rights in the Asserted Patents.

**OBJECTIONS AND RESPONSES TO INTERROGATORY NO. 12**

In addition to its General Objections, which are incorporated herein by reference, Plaintiff objects to this interrogatory to the extent it would require the disclosure of information that is confidential to a third party. Plaintiff further objects to this interrogatory to the extent it seeks information that if it exists, is protected from disclosure by the attorney-client privilege, common interest privilege, work product doctrine, and/or other applicable privileges and/or exemptions. Plaintiff further objects to this interrogatory to the extent it seeks information that is not relevant, or not readily accessible, including offers to grant rights by third parties. Plaintiff further objects to the extent this interrogatory seeks information that is not in its possession, custody, or control such as offers by prior assignees.

Subject to and without waiving any General Objections or Specific Objections, Plaintiff responds as follows:

Pursuant to Rule 33(d), information responsive to this interrogatory can be found by reviewing the following documents: PALISADE\_00000626-29; PALISADE\_00001261-80.

Plaintiff's investigation is ongoing, and Plaintiff reserves the right to modify or supplement the response to this interrogatory as discovery continues.

**INTERROGATORY NO. 13**

Identify every person or entity with a current or prior financial, ownership, or other interest in Palisade, the Asserted Patents or Related Patents, or This Action and for each such person or entity, describe the nature of the interest held by that person or entity.

**OBJECTIONS AND RESPONSES TO INTERROGATORY NO. 13**

In addition to its General Objections, which are incorporated herein by reference, Plaintiff objects to this interrogatory to the extent it would require the disclosure of information that is confidential to a third party. Plaintiff further objects to this interrogatory to the extent it seeks information that if it exists, is protected from disclosure by the attorney-client privilege, common interest privilege, work product doctrine, and/or other applicable privileges and/or exemptions. *See, e.g., United States ex rel. Fisher v. Ocwen Loan Servicing, LLC*, No. 4:12-CV-543, 2016 U.S. Dist. LEXIS 32967 (E.D. Tex. March 15, 2016) (denying defendant's requests regarding discovery of third-party litigation funding on the basis of work product); *United States ex rel. Fisher v. Homeward Residential, Inc.*, No. 4:12-cv-461, 2016 U.S. Dist. LEXIS 32910 at \*15 (E.D. Tex. March 15, 2016). Plaintiff further objects to this interrogatory on the basis that it is unbounded in time, and thus seeks information that is not relevant, or not readily accessible. Plaintiff further objects to this interrogatory to the extent it seeks the disclosure and circumstances of any interests

in the outcome of this litigation and/or the funding for the litigation as irrespective of whether such interests even exist, the requested information is irrelevant, unduly burdensome, not proportional to the needs of the case and protected by aforementioned privileges. *See, e.g., Fleet Connect Sols. LLC v. Waste Connections US, Inc.*, No. 2:21-cv-00365-JRG, 2022 U.S. Dist. LEXIS 129216, at \*6-8 (E.D. Tex. June 29, 2022) (denying defendant’s requests regarding discovery of third-party litigation funding on the basis of relevance); *Kove IO, Inc. v. Amazon Web Services, Inc.*, No. 1:18-cv-8175 (N.D. Ill.), ECF No. 497 at 20-21 (denying defendant’s requests regarding discovery of third-party litigation funding on the basis of relevance and work product); *Neural Magic, Inc. v. Facebook Inc.*, No. 20-cv-10444 (D. Mass.), ECF No. 224 (denying defendant’s requests regarding discovery of third-party litigation funding on the basis of relevance and proportionality). Plaintiff further objects to this interrogatory as vague and ambiguous with respect to the term “other interest.” Plaintiff objects to this interrogatory on the basis that is overly broad, unduly burdensome, and unlikely to lead to the discovery of relevant information because it seeks responsive information related to patents that are not asserted in this matter.

Subject to and without waiving any General Objections or Specific Objections, Plaintiff responds as follows:

Pursuant to Rule 33(d), information responsive to this interrogatory can be found by reviewing the following documents: PALISADE\_00001261-80.

Plaintiff’s investigation is ongoing, and Plaintiff reserves the right to modify or supplement the response to this interrogatory as discovery continues.

**INTERROGATORY NO. 14**

Describe with particularity Palisade’s total revenues, profits, and costs attributable to patent monetization, enforcement, or licensing activities on a monthly or quarterly basis, segmenting the

financial figures by source, such as licensee, litigant, customer, assignee/assignor, or counter-party to any agreement or contract.

#### **OBJECTIONS AND RESPONSES TO INTERROGATORY NO. 14**

Plaintiff objects to this interrogatory on the basis that is overly broad, unduly burdensome, and unlikely to lead to the discovery of relevant information. Plaintiff further objects to this interrogatory to the extent it seeks privileged information, including information protected in whole or in part by the work product doctrine, the attorney-client privilege, common interest privilege, or any other applicable privilege or immunity. Plaintiff further objects to this interrogatory to the extent it calls for a legal conclusion or interpretation.

Subject to and without waiving any General Objections or Specific Objections, Plaintiff responds as follows:

Pursuant to Rule 33(d), information responsive to this interrogatory can be found by reviewing the following documents: PALISADE\_00001261-80.

Plaintiff's investigation is ongoing, and Plaintiff reserves the right to modify or supplement the response to this interrogatory as discovery continues.

#### **INTERROGATORY NO. 15**

Describe with particularity all factual and legal bases for Palisade's claim for damages in This Action, including:

(a) Whether Palisade's damages claims are based on lost profits, a reasonable royalty, or other damages theory, including identifying any royalty rate, royalty base, lost profits, disgorgements, enhanced damages, attorney's fees, or costs that You contend are appropriate, and the bases for such contentions;

(b) The date Palisade contends the hypothetical negotiation should have commenced;

(c) The time period for which Palisade contends that it is entitled to collect damages from Micron;

(d) The feature, component, or product that Palisade contends is the appropriate royalty base.

**OBJECTIONS AND RESPONSES TO INTERROGATORY NO. 15**

In addition to the foregoing general objections, Plaintiff objects to this interrogatory on the basis that it consists of multiple sub-parts, and is in fact multiple interrogatories designed to exceed the discovery limits imposed by this Court and the Federal Rules. Plaintiff objects to this interrogatory on the basis that is overly broad, unduly burdensome, and unlikely to lead to the discovery of relevant information. Plaintiff further objects to this interrogatory to the extent it seeks privileged information, including information protected in whole or in part by the work product doctrine, the attorney-client privilege, common interest privilege, or any other applicable privilege or immunity. Plaintiff further objects to this interrogatory to the extent it calls for a legal conclusion or interpretation. Plaintiff also objects to this interrogatory because it calls for an expert opinion in advance of the expert disclosure deadlines. Plaintiff also objects to this interrogatory insofar as it purports to require Plaintiff to marshal all of its available proof or to otherwise limit the evidence Plaintiff may present.

Subject to and without waiving any General Objections or Specific Objections, Plaintiff responds as follows:

Plaintiff is entitled to a reasonable royalty by both statute and Federal Circuit precedent to compensate it for Defendant's infringement of the Asserted Claims. See *Versata Software, Inc. v. SAP Am., Inc.*, 717 F.3d 1255, 1267 (Fed. Cir. 2013) ("A reasonable royalty is the statutory floor for damages in an infringement case. See 35 U.S.C. § 284."). Plaintiff is entitled to at least a

reasonable royalty adequate to compensate it for Defendant's infringement, the full extent of which is still unknown and requires discovery from the Defendant. A reasonable royalty may be determined by analysis of a variety of factors, such as those set forth in *Georgia-Pacific Corp. v. U.S. Plywood Corp.*, 318 F. Supp. 1116 (S.D.N.Y. 1970). Plaintiff requires additional discovery to determine the full extent of the Defendant's infringement, weigh the various factors, and compute the appropriate amount of a reasonable royalty in this matter. Further, Plaintiff directs Defendant to its expert disclosures, which will be made in accordance with the schedule governing this case, and shall be incorporated by reference herein.

Plaintiff's investigation is ongoing, and Plaintiff reserves the right to amend, supplement or otherwise change its response to this interrogatory as discovery continues in this matter. Plaintiff's damages may incorporate various theories and remedies, including, not limited to, a reasonable royalty. As stated in 35 U.S.C. §284:

Upon finding for the claimant the court shall award the claimant damages adequate to compensate for the infringement, but in no event less than a reasonable royalty for the use made of the invention by the infringer, together with interest and costs as fixed by the court.

When the damages are not found by a jury, the court shall assess them. In either event the court may increase the damages up to three times the amount found or assessed. Increased damages under this paragraph shall not apply to provisional rights under section 154(d).

The court may receive expert testimony as an aid to the determination of damages or of what royalty would be reasonable under the circumstances.

35 U.S.C §284.

In connection with assessing patent damages, the asserted claims are assumed to be valid in light of the alleged prior art and infringed by the Defendant's accused products. Plaintiff contends that damages may be recovered beginning six years prior to the filing of the original complaint on March 19, 2024. In addition, the parties to the hypothetical negotiation must reach

an agreement; the Defendant, infringer, may not refuse to take a license to the asserted patents. In addition, patent damages can be assessed utilizing the “Book of Wisdom,” which permits factors and evidence existing before or after the first date of infringement to be considered in connection with determining patent royalties and/or damages.

In many cases, including this one, patent damages can be assessed using a “hypothetical negotiation,” between a “willing licensor” (the patent owner) and a “willing licensee” (the infringer), at the time the infringement began. Such an analysis is based on the seminal case of *Georgia-Pacific Corp. v. United States Plywood Corp.*, 318 F. Supp. 1116 (S.D.N.Y. 1970), mod. and *aff’d*, 446 F.2d 295 (2d Cir. 1971), *cert. den.*, 404 U.S. 870 (1971), where fifteen factors were used to help in determining the reasonable royalty.

The fifteen *Georgia Pacific* factors are included below; notably, not all factors may be applicable in each case.

1. The royalties received by the patent owner for the licensing of the patent-in-suit, proving or tending to prove an established royalty;
2. The rates paid by the licensee for the use of other patents comparable to the patent-in-suit;
3. The nature and scope of the license, as exclusive or non-exclusive, or as restricted or non-restricted in terms of territory or with respect to whom the manufactured product may be sold;
4. The licensor’s established policy and marketing program to maintain its patent monopoly by not licensing others to use the invention or by granting licenses under special conditions designed to preserve that monopoly;

5. The commercial relationship between the licensor and the licensee, such as whether they are competitors in the same territory in the same line of business, or whether they are inventor and promoter;

6. The effect of selling the patented specialty in promoting sales of other products of the licensee; the existing value of the invention to the licensor as a generator of sales of its non-patented items; and the extent of such derivative or convoyed sales;

7. The duration of the patent and the term of the license;

8. The established profitability of the product made under the patent; its commercial success; and its current popularity;

9. The utility and advantages of the patent property over the old modes or devices, if any, that had been used for working out similar results;

10. The nature of the patented invention; the character of the commercial embodiment of it as owned and produced by the licensor; and the benefits to those who have used the invention;

11. The extent to which the infringer has made use of the invention, and any evidence probative of the value of that use;

12. The portion of the profit or of the selling price that may be customary in the particular business or in comparable businesses to allow for the use of the invention or analogous inventions;

13. The portion of the realizable profit that should be credited to the invention as distinguished from non-patented elements, the manufacturing process, business risks, or significant features or improvements added by the infringer;

14. The opinion testimony of qualified experts; and

15. The amount that a licensor (such as the patent owner) and a licensee (such as the infringer) would have agreed upon (at the time the infringement began) if both had been reasonably and voluntarily trying to reach an agreement; that is, the amount that a prudent licensee – who desired, as a business proposition, to obtain a license to manufacture and sell a particular article embodying the patented invention – would have been willing to pay as a royalty and yet be able to make a reasonable profit, and which amount would have been acceptable by a prudent patent owner who was willing to grant a license.

*Id.*

Substantial reasonable royalty rates have been sustained by the Federal Circuit Court of Appeals in patent infringement cases. *See e.g., Deere & Co. v. International Harvester Co.*, 710 F.2d 1551, 1554-58 (Fed. Cir. 1983) (15% reasonable royalty rate); *Bio-Rad Laboratories, Inc. v. Nicolet Instrument Corp*, 739 F.2d 604 (Fed. Cir. 1984) (20% reasonable royalty rate); *SmithKline Diagnostics, Inc. v. Helena Laboratories, Inc.*, 926 F.2d 1161 (Fed. Cir. 1991) (25% reasonable royalty rate); *Biotec Biologische Naturverpackungen GmbH & Co. KG v. Biocorp, Inc.*, 249 F.3d 1341 (Fed. Cir. 2001) (33% reasonable royalty rate); *Minco, Inc. v. Combustion Engineering, Inc.* 95 F.3d 1109 (Fed. Cir. 1996) (40% reasonable royalty rate); *Bayer HealthCare LLC v. Baxalta Inc.*, 989 F.3d 964, 985 (Fed. Cir. 2021) (17.78% reasonable royalty rate determined by the jury based on a range between 5.1% and 42.4%).

In addition, other damages theories may be utilized by the Plaintiff, including the analytical approach. The analytical approach is premised on certain applicable caselaw, such as *TWM Manufacturing Co. v. Dura Corp.*, 789 F. 2d 895 (Fed. Cir. 1986), *cert. denied*, 479 U.S. 852 (1986) that involves evaluating patent damages based on the Defendant's projected or actual results related to its revenues, costs, and profits from the accused products, determining the

apportioned benefits to those metrics due to Defendant's use of the patents at issue, and then splitting the apportioned benefits between the Plaintiff and Defendant as a percentage of sales. The Plaintiff's split of the profits is then applied to the revenue for the accused products to determine the reasonable royalty for the Plaintiff's damages. In the *TWM* case, the Federal Circuit affirmed damages based on the analytical approach of a 30% reasonable royalty rate. *Id.*

Benefits due to the patents at issue may be determined through several means tied to the facts and circumstances of the case, generally by comparing technical and economic performance in the Actual World – where the patents were used – to the best available non-infringing alternative at the time of the Hypothetical Negotiation. A technical difference in performance under that alternative – for example here a difference in product useful life or performance under typical use – can be mapped to an economic benefit in various ways – for example by examining the difference in pricing for products at various performance points – alternatively by examining the costs savings provided by the improved performance. Plaintiff may rely on testing to show differences in useful life or performance provided by the patented technology. Economic benefits that accrue to Defendant from the use of the patents at issue must then be apportioned, in accordance with relevant case law, to eliminate other technical and economic inputs that contribute to those benefits – thereby isolating those benefits entirely due to the Defendant's use of that patents at issue.

Moreover, several additional theories of patent damages are available to the Plaintiff, several of which incorporate various aspects of the *Georgia Pacific* and/or analytical approach such as an established royalty for the asserted patent claims (*e.g.*, Factor 1 of the *Georgia Pacific* factors) or a cost savings approach as discussed in *Hanson v. Alpine Valley Ski Area, Inc.*, 718 F. 2d. 1075 (Fed. Cir. 1983).

The timeframe for assessing damages is subject to 35 U.S.C. §286, which provides:

Except as otherwise provided by law, no recovery shall be had for any infringement committed more than six years prior to the filing of the complaint or counterclaim for infringement in the action.

In the case of claims against the United States Government for use of a patented invention, the period before bringing suit, up to six years, between the date of receipt of a written claim for compensation by the department or agency of the Government having authority to settle such claim, and the date of mailing by the Government of a notice to the claimant that his claim has been denied shall not be counted as part of the period referred to in the preceding paragraph.

35 U.S.C. §286. In connection therewith, Plaintiff pleads that it is in compliance with both 35 U.S.C §286 and 35 U.S.C. §287, and therefore, seeks damages against the Defendants for infringing sales six years prior to the filing of the Original Complaint in this action.

Finally, Defendants, pursuant to 35 U.S.C. §284 are liable to Plaintiff for increased damages of three times the amounts awarded to Plaintiff in this matter.

Plaintiff's investigation is ongoing, and Plaintiff reserves the right to modify or supplement the response to this interrogatory as discovery continues.

**INTERROGATORY NO. 16**

Identify all technical and financial evaluations, valuations, analyses, opinions, or studies (“Investigations”) related to any of the Asserted Patents or Related Patents, any portfolio containing any such patent(s), or This Action conducted by any person (including, without limitation, any Investigations relating to the infringement, non-infringement, validity, invalidity, enforceability, unenforceability, or value or any such patent(s) or the potential monetary or other damages that could be recovered as a result of This Action or assertion of any such patent(s)), including for each Investigation the name(s) of the person(s) who conducted such Investigation, and the date and purpose of such Investigation, and list any and all relevant documents and things by production number and individuals most knowledgeable.

## **OBJECTIONS AND RESPONSES TO INTERROGATORY NO. 16**

In addition to its General Objections, which are incorporated herein by reference, Plaintiff objects to this interrogatory to the extent it seeks documents or information protected from disclosure under the attorney-client privilege or work product doctrine, including the impressions and strategies of Plaintiff's counsel. Plaintiff also objects to this interrogatory to the extent it seeks information from anyone other than Plaintiff and is not in Plaintiff's possession, custody, or control. Plaintiff objects to this interrogatory to the extent it calls for legal conclusions. Plaintiff objects to this interrogatory on the basis that is overly broad, unduly burdensome, and unlikely to lead to the discovery of relevant information because it seeks responsive information related to patents that are not asserted in this matter.

Subject to and without waiving any General Objections or Specific Objections, Plaintiff responds as follows:

Plaintiff is unaware of a valuation analysis or to otherwise determine the value of any of the Asserted Patents. Plaintiff's investigation is ongoing, and Plaintiff reserves the right to amend, supplement or otherwise change its response to this interrogatory as discovery continues in this matter.

Plaintiff's investigation is ongoing, and Plaintiff reserves the right to modify or supplement the response to this interrogatory as discovery continues.

## **INTERROGATORY NO. 17**

Separately for each of the Asserted Patents and Related Patents, identify all Prior Art known by You or made known to You by any third party or otherwise (including, without limitation, all Prior Art made known to you in any Related Litigation), including the date and circumstances under which such Prior Art was discovered by or made known to You, and list any

and all relevant documents and things (including Prior Art documents and invalidity contentions) by production number and individuals most knowledgeable.

**OBJECTIONS AND RESPONSES TO INTERROGATORY NO. 17**

In addition to its General Objections, which are incorporated herein by reference, Plaintiff objects to this interrogatory to the extent it seeks documents or information protected from disclosure under the attorney-client privilege or work product doctrine, including the impressions and strategies of Plaintiff's counsel. Plaintiff also objects to this interrogatory to the extent it seeks information from anyone other than Plaintiff and is not in Plaintiff's possession, custody, or control. Plaintiff objects to this interrogatory to the extent it calls for legal conclusions. Plaintiff further objects to this interrogatory to the extent it seeks information that is not relevant to the issues in this case to the extent it seeks identification of alleged prior art that is not identified in Defendant's invalidity contentions. Plaintiff objects to this interrogatory to the extent it calls for a legal conclusion as to whether a reference qualifies as prior art, any identification by Plaintiff is not an admission that the reference qualifies as prior art. Plaintiff objects to this interrogatory on the basis that is overly broad, unduly burdensome, and unlikely to lead to the discovery of relevant information because it seeks responsive information related to patents that are not asserted in this matter.

Subject to and without waiving any General Objections or Specific Objections, Plaintiff responds as follows:

Pursuant to Rule 33(d), Plaintiff identifies Defendant's Invalidity Contentions and the File Histories for the Asserted Patents.

Plaintiff's investigation is ongoing, and Plaintiff reserves the right to modify or supplement the response to this interrogatory as discovery continues.

Dated: November 3, 2025

Respectfully submitted,

/s/ Patrick J. Conroy

**Patrick J. Conroy**

Texas Bar No. 24012448

**T. William Kennedy Jr.**

Texas Bar No. 24055771

**Ryan P. Griffin**

Texas Bar No. 24053687

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on counsel for Defendants via email on November 3, 2025.

*/s/ Patrick J. Conroy*