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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

INTEL CORPORATION,
Plaintiff,

v.

PACT XPP SCHWEIZ AG,
Defendant.

CASE NO. 19-CV-2241

**COMPLAINT FOR DECLARATORY
JUDGMENT**

DEMAND FOR JURY TRIAL

Complaint for Declaratory Judgment
and Jury Demand

1 Plaintiff Intel Corporation (“Intel”), for its Complaint against PACT XPP Schweiz AG
2 (“Defendant”), hereby alleges as follows:

3 **NATURE OF THE ACTION**

4 1. This is an action for breach of contract and declaratory judgment that 12 United States
5 patents are not infringed, and are covered by a covenant not to sue and/or exhausted pursuant to the
6 Declaratory Judgment Act, 28 U.S.C. §§ 2201-02, and the Patent Laws of the United States, 35 U.S.C.
7 § 100 *et seq.*, and for such other relief as the Court deems just and proper.

8 **THE PARTIES**

9 2. Plaintiff Intel is a corporation organized and existing under the laws of the State of
10 Delaware having its principal place of business at 2200 Mission College Boulevard, Santa Clara,
11 California, 95054. Intel does business in this District.

12 3. Upon information and belief, Defendant PACT XPP Schweiz AG is a Swiss
13 corporation, with its principal place of business in Switzerland.

14 4. Defendant alleges that PACT XPP Schweiz AG’s predecessor and assignor PACT XPP
15 TECHNOLOGIES AG (Lichtenstein) (hereinafter, collectively with PACT XPP Schweiz AG,
16 referred to as “PACT”) was founded in 1996 in Germany by Martin Vorbach.

17 5. PACT alleges that it is the assignee and owner of the patents at issue in this action:
18 U.S. Patent Nos. 7,928,763, 8,301,872, 8,312,301, 8,471,593, 8,686,549, 8,819,505, 9,037,807,
19 9,075,605, 9,170,812, 9,250,908, 9,436,631, and 9,552,047.

20 **JURISDICTION AND VENUE**

21 6. This Court has exclusive subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331,
22 1338(a), 2201, and 2202, and the Patent Laws of the United States, 35 U.S.C. § 1 *et. seq.* The Court
23 has supplemental jurisdiction over Intel’s breach of contract claim under 28 U.S.C. § 1367.

24 7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391.

25 8. This Court has personal jurisdiction over PACT by virtue of PACT’s sufficient
26 minimum contacts with this forum.

1 9. Upon information and belief, Martin Vorbach is the founder and Chief Technology
2 Officer of PACT. Upon information and belief, Mr. Vorbach resides and does business in the San
3 Francisco Bay Area. *See* Ex. 1 (LinkedIn).

4 10. On or about October 15, 2007, PACT and Intel entered into a letter agreement
5 containing a covenant not to sue (the “Covenant Not To Sue”). As described in more detail below,
6 the Covenant Not To Sue precludes PACT from asserting the patents at issue in this Complaint.
7 PACT’s former CEO, Peter Weber and Intel’s Kirk Skaugen executed the agreement. The Covenant
8 Not To Sue lists Intel’s address as 2200 Mission College Blvd., Santa Clara, CA 95052. The Covenant
9 Not To Sue lists PACT’s address as 103 Altura Vista, Los Gatos, CA 95032.

10 11. Upon information and belief, Martin Vorbach is also the founder and Chief Technology
11 Officer of Hyperion-Core, Inc. Upon information and belief, Hyperion-Core, Inc.’s headquarters is
12 also currently located at 103 Altura Vista, Los Gatos, CA 95032, as stated on its website.¹

13 12. Upon information and belief, during approximately 2003-2011, PACT had meetings
14 within this District with Intel regarding the Covenant Not To Sue and other agreements entered into
15 between the companies, identifying PACT’s address in Los Gatos California.

16 13. Upon information and belief, PACT has previously consented to personal jurisdiction
17 in this District. More specifically, upon information and belief. Altera Corporation filed a declaratory
18 judgment action against PACT in this district on or around June 20, 2014. *See* Altera Corp. v. PACT
19 XPP Technologies, AG, Case No. 3:14-cv-02868-JD. Upon information and belief, PACT consented
20 to personal jurisdiction in that case. *See* Ex. 2 at ¶ 5 (“PACT consents to the personal jurisdiction in
21 this Court.”)

22 14. This Court has subject matter jurisdiction over this action based on a real and
23 immediate controversy between PACT and Intel regarding whether various of Intel’s processors
24 (“CPUs”) infringe certain PACT patents, and further whether those PACT patents are covered by a
25 covenant not to sue and/or exhausted. As described in more detail below, this controversy arises out
26 of PACT’s and Mr. Vorbach’s infringement allegations and licensing demands to Intel in which PACT

27
28 ¹ <http://hyperion-core.com/contact-us>;
<http://hyperion-core.com/products/availability/martin-vorbach>

1 broadly alleges its patents cover technologies implemented by Intel Core and Xeon processors with
2 Sandy Bridge and above microarchitectures, including allegedly infringing ring bus architecture,
3 Turbo Boost, and Foveros technologies. *See* Ex. 3 (Complaint, Case No. 1:19-cv-00267-RGA).

4 15. PACT purports to be the owner of a portfolio of patents that, according to PACT,
5 allegedly relate to “multi-core processing systems including how to handle more complex algorithms
6 with large amounts of data involving multiple processors on a single chip.” Ex. 3 at ¶ 8. According
7 to PACT, its alleged portfolio includes U.S. Patent Nos. 7,928,763 (“the ’763 Patent”), 8,301,872 (“the
8 ’872 Patent”), 8,312,301 (“the ’301 Patent”), 8,471,593 (“the ’593 Patent”), 8,686,549 (“the ’549
9 Patent”), 8,819,505 (“the ’505 Patent”), 9,037,807 (“the ’807 Patent”), 9,075,605 (“the ’605 Patent”),
10 9,170,812 (“the ’812 Patent”), 9,250,908 (“the ’908 Patent”), 9,436,631 (“the ’631 Patent”), and
11 9,552,047 (“the ’047 Patent”) (collectively, the “Patents-in-Suit”), as well as other U.S. Patents.

12 16. Intel has been a pioneer in the semiconductor industry since the 1970s. Intel has
13 introduced generation after generation of cutting-edge microprocessors, memory products and related
14 chips that have been the benchmark for high performance computers. Intel is currently the world’s
15 leading supplier of computer processors, and is one of the largest investors and employers in high-tech
16 manufacturing in the U.S. The processors that PACT accuses of infringement are foundational for the
17 U.S. economy. They are designed and made by Intel in the U.S., packaged and tested abroad, and sold
18 to customers worldwide. These Intel processors are used in computers across every major sector of
19 U.S. industry and in defense, government, healthcare, banking, and education. The accused processors
20 also power advanced systems, including servers supporting the Internet and the Cloud, MRIs, military
21 platforms, and supercomputers. Intel supplies over 90% of the CPUs used in personal computers and
22 servers.

23 **PROCEDURAL BACKGROUND**

24 17. On February 7, 2019, PACT filed a complaint against Intel in the United States District
25 Court for the District of Delaware (“First Filed Delaware Case”), alleging infringement of the same
26 12 patents at issue here: U.S. Patent Nos. 7,928,763 (“the ’763 Patent”), 8,301,872 (“the ’872 Patent”),
27 8,312,301 (“the ’301 Patent”), 8,471,593 (“the ’593 Patent”), 8,686,549 (“the ’549 Patent”), 8,819,505
28 (“the ’505 Patent”), 9,037,807 (“the ’807 Patent”), 9,075,605 (“the ’605 Patent”), 9,170,812 (“the ’812

1 Patent”), 9,250,908 (“the ’908 Patent”), 9,436,631 (“the ’631 Patent”), and 9,552,047 (“the ’047
2 Patent”) (collectively, the “Patents-in-Suit”). PACT alleged that Intel infringed the Patent-in-Suit
3 based on its “manufactur[ing], use (including testing), sale, offer for sale, advertisement, importation,
4 shipment and distribution, service, installation, and/or maintenance of Intel Core processors with
5 Sandy Bridge and above microarchitectures...and Intel Xeon processors with Sandy Bridge and above
6 microarchitectures” Ex. 3 at ¶ 32.

7 18. On February 11, 2019, PACT filed its Rule 7.1 Disclosure Statement in the First Filed
8 Delaware Case.

9 19. On February 20, 2019, PACT and Intel filed a stipulation to extend Intel’s time “to
10 answer, move or otherwise respond to the Complaint [to] April 15, 2019” in the First Filed Delaware
11 Case.

12 20. On March 26, 2019, PACT attempted to serve its First Set of Requests for Production
13 (Nos. 1-48) on Intel ahead of any meet and confer of the parties under Fed. R. Civ. P. Rule 26 in the
14 First Filed Delaware Case.

15 21. On April 9, 2019, Intel’s counsel met and conferred with PACT’s counsel regarding an
16 extension to Intel’s deadline to respond to PACT’s complaint in the First Filed Delaware Case.
17 PACT’s counsel agreed to stipulate that Intel be given two additional weeks to answer PACT’s
18 Complaint, given Intel’s agreement to answer the Complaint and not move to dismiss: “this email
19 confirms our agreement to stipulate to an additional 2 weeks to answer the complaint. Michael and
20 Brian [PACT’s Delaware counsel], I [PACT’s national counsel] authorized Jack [Intel’s Delaware
21 counsel] to so represent to the Court since Intel will be answering not moving in response to the
22 Complaint.” *See* Ex. 4 (4/9/19 Email F. Lorig to J. Blumenfeld). Intel agreed, and a stipulation was
23 entered, extending Intel’s time to answer PACT’s Complaint to April 29, 2019.

24 22. On April 23, 2019, as required by local rules prior to filing a motion to transfer, Intel’s
25 counsel met and conferred again with PACT’s counsel. Intel’s counsel expressed its intent to file a
26 motion to transfer the First Filed Delaware Case based on 28 U.S.C. § 1404(a). PACT’s counsel
27 responded: “Jack [Intel’s Delaware counsel], on behalf of [I]ntel you said there would be an answer
28 filed not a motion to transfer in return for last stipulation.” *See* Ex. 5 (4/23/19 Email F. Lorig to J.

1 Blumenfeld). Intel responded that it would indeed file an answer, and that “[t]he motion to transfer
2 will not be in lieu of an answer.” *Id.*

3 23. The same day, PACT filed a second complaint against Intel in W.D. Texas (Second
4 Filed Texas Case), while the First Filed Delaware Case was still pending, alleging infringement of the
5 same 12 Patents-in-Suit. PACT’s Complaint in the Second Filed Texas Case is substantively identical
6 to its Complaint in the First Filed Delaware Case, except that PACT also includes allegations about
7 Intel’s business in Austin, Texas in an attempt to establish personal jurisdiction. *See* Ex. 6 (W.D. Tex.
8 Complaint) at ¶ 2.

9 24. The next day, on April 24, 2019, PACT filed a Notice of Dismissal Without Prejudice
10 in the First Filed Delaware Case. *See* Ex. 7 (Notice of Dismissal).

11 25. Upon information and belief, PACT’s filing of the Second Filed Texas Case while the
12 First Filed Case was still pending and subsequent dismissal of the First Filed Delaware Case was based
13 solely on Intel’s communicated intent to file a motion to transfer from Delaware and constitutes an
14 attempt to improperly forum shop.

15 26. By virtue of these acts, an actual and justiciable controversy exists between the parties
16 concerning Intel’s liability for the alleged infringement of the disputed claims of the patents-in-suit.
17 Intel now seeks a declaratory judgment of noninfringement of the disputed claims of the PACT
18 Patents-in-Suit.

19 **THE PATENTS-IN-SUIT**

20 27. The United States Patent Office (“USPTO”) issued the ’763 Patent, entitled “Multi-
21 Core Processing System,” on April 19, 2011. A copy of the ’763 Patent is attached hereto as Exhibit A.

22 28. The USPTO issued the ’872 Patent, entitled “Pipeline Configuration Protocol and
23 Configuration Unit Communication,” on April 19, 2011. A copy of the ’872 Patent is attached hereto
24 as Exhibit B.

25 29. The USPTO issued the ’301 Patent, entitled “Methods and Devices for Treating and
26 Processing Data,” on November 13, 2012. A copy of the ’301 Patent is attached hereto as Exhibit C.

27 30. The USPTO issued the ’593 Patent, entitled “Logic Cell Array and Bus System,” on
28 June 25, 2013. A copy of the ’593 Patent is attached hereto as Exhibit D.

1 31. The USPTO issued the '549 Patent, entitled "Reconfigurable Elements," on April 1,
2 2014. A copy of the '549 Patent is attached hereto as Exhibit E.

3 32. The USPTO issued the '505 Patent, entitled "Data Processor Having Disable Cores,"
4 on August 26, 2014. A copy of the '505 Patent is attached hereto as Exhibit F.

5 33. The USPTO issued the '807 Patent, entitled "Processor Arrangement on a Chip
6 Including Data Processing, Memory, and Interface Elements," on May 19, 2015. A copy of the '807
7 Patent is attached hereto as Exhibit G.

8 34. The USPTO issued the '605 Patent, entitled "Methods and Devices for Treating and
9 Processing data," on July 7, 2015. A copy of the '605 Patent is attached hereto as Exhibit H.

10 35. The USPTO issued the '812 Patent, entitled "Data Processing System Having
11 Integrated Pipelined Array Data Processor," on October 27, 2015. A copy of the '812 Patent is
12 attached hereto as Exhibit I.

13 36. The USPTO issued the '908 Patent, entitled "Multi-Processor Bus and cache
14 Interconnection System," on February 2, 2016. A copy of the '908 Patent is attached hereto as
15 Exhibit J.

16 37. The USPTO issued the '631 Patent, entitled "Chip Including Memory Element Storing
17 Higher Level Memory Data on a Page by Page Basis," on September 6, 2016. A copy of the '631
18 Patent is attached hereto as Exhibit K.

19 38. The USPTO issued the '047 Patent, entitled "Multiprocessor Having Runtime
20 Adjustable Clock and Clock Dependent Power Supply," on January 24, 2017. A copy of the '047
21 Patent is attached hereto as Exhibit L.

22 **ACCUSED INTEL INSTRUMENTALITIES**

23 39. PACT has accused Intel of infringing the Patents-in-Suit through the manufacture, use
24 (including testing), sale, offer for sale, advertisement, importation, shipment and distribution, service,
25 installation, and/or maintenance of Intel Core processors with Sandy Bridge and above
26 microarchitectures (the "Accused Core Instrumentalities") and Intel Xeon processors with Sandy
27 Bridge and above microarchitectures (the "Accused Xeon Instrumentalities") and on information and
28 belief other processors incorporating ring bus architecture or equivalents. *See* Ex. 3 at ¶ 32.

40. According to PACT, Intel’s “Accused Core Instrumentalities,” including Intel Core processors with Sandy Bridge and above microarchitectures, including, but not limited to, Core i3, Core i5, Core i7, Core i9, and other core processors with the microarchitectures of Sandy Bridge, Ivy Bridge, Haswell, Broadwell, Skylake, Kaby Lake, Coffee Lake, Cannon Lake, Ice Lake, and above, allegedly infringe the Patents-in-Suit. *See* Ex. 3 at ¶ 33. Intel denies such alleged infringement.

41. According to PACT, Intel’s “Accused Xeon Instrumentalities,” including Intel Xeon processors with Sandy Bridge and above microarchitectures, including, but not limited to, E3, E5, E7, and other Xeon processors with the microarchitectures of Sandy Bridge, Ivy Bridge, Haswell, Broadwell, Skylake, Kaby Lake, and above, allegedly infringe the Patents-in-Suit. *See* Ex. 3 at ¶ 34. Intel denies such alleged infringement.

42. According to PACT, Intel’s “Accused Turbo Boost Instrumentalities,” including Intel processors with a GPU with the Turbo Boost feature, allegedly infringe the Patents-in-Suit. *See* Ex. 3 at ¶¶ 35, 207. Intel denies such alleged infringement.

43. According to PACT, Intel’s “Accused Turbo Boost 3.0 Instrumentalities” including Intel processors with Turbo Boost Max Technology 3.0, allegedly infringe the Patents-in-Suit. *See* Ex. 3 at ¶¶ 35, 88. Intel denies such alleged infringement.

44. According to PACT, Intel’s “Accused Stacking Instrumentalities,” including Intel chips and/or chipsets implementing Foveros technology, such as Lakefield, allegedly infringe the Patents-in-Suit. *See* Ex. 3 at ¶¶ 35, 135. Intel denies such alleged infringement.

45. According to PACT, Intel’s “Accused ’505 Instrumentalities,” including the Accused Xeon instrumentalities with nine or more core, allegedly infringe the Patents-in-Suit. *See* Ex. 3 at ¶¶ 35, 160. Intel denies such alleged infringement.

COUNT I
BREACH OF CONTRACT

46. Intel repeats and realleges the allegations in paragraphs 1–45 as though fully set forth herein.

1 47. On or about October 15, 2007, PACT XPP Technologies Inc. and Intel Corporation
2 entered into a letter agreement containing a covenant not to sue (the “Covenant Not To Sue”). PACT
3 XPP Technologies Inc.’s former CEO, Peter Weber and Intel’s Kirk Skaugen executed the agreement.

4 48. The Covenant Not To Sue precludes PACT from asserting at least the following claims
5 of the following United States Patents against Intel: claim 1 of 7,928,763 (“the ’763 Patent”); claim 2
6 of 8,301,872 (“the ’872 Patent”); claim 10 of 8,312,301 (“the ’301 Patent”); claim 1 of 8,471,593 (“the
7 ’593 Patent”); claim 39 of 8,686,549 (“the ’549 Patent”); claim 27 of 8,819,505 (“the ’505 Patent”);
8 claim 1 of 9,037,807 (“the ’807 Patent”); claim 1 of 9,075,605 (“the ’605 Patent”); claim 12 of
9 9,170,812 (“the ’812 Patent”); claim 4 of 9,250,908 (“the ’908 Patent”); claim 1 of 9,436,631 (“the
10 ’631 Patent”); and claim 1 of 9,552,047 (“the ’047 Patent”) (collectively, the “Asserted Claims of the
11 Patents-in-Suit”).

12 49. The preamble of the Covenant Not To Sue provides that, “[i]n consideration of Intel
13 providing PACT XPP Technologies Inc., its parent(s), subsidiaries and affiliates (collectively,
14 “Company”) ongoing access to and use of Intel confidential, proprietary and trade secret information
15 relating to the Front Side Bus (as defined below), pursuant to the applicable nondisclosure agreement
16 (such as a Restricted Secret Non-Disclosure Agreement (“RSNDA”)) in effect between Intel and
17 Company, Intel and Company hereby agree to the terms and obligations of this letter agreement”

18 50. Under paragraph 2.1 of the Covenant Not To Sue, PACT agreed not to assert any “FSB
19 Patent Rights” (defined at ¶¶ 1.4 and 1.6 of the agreement) “against Intel, its subsidiaries or affiliates,
20 or their customers (direct or indirect), distributors (direct or indirect), agents (direct or indirect) and
21 contractors (direct or indirect) for the manufacture, use, import, offer for sale or sale of any of Intel’s
22 Products or any process or method employed in the manufacture, testing, distribution or use
23 thereof”

24 51. “Intel’s Products” as defined at ¶ 1.5 of the Covenant Not To Sue means “all products
25 made by or for Intel,” and accordingly all of the Accused Products (as defined in PACT’s Complaint)
26 qualify as “Intel’s Products” as used in paragraph 2.1 of the Covenant Not To Sue.

1 52. The Covenant Not To Sue “survive[s] any termination or expiration of this Agreement
2 and shall remain in full force and effect until mutually agreed otherwise by [Intel and PACT].” There
3 has been no agreement to terminate the Covenant Not To Sue and it remains in full force and effect.

4 53. Pursuant to ¶ 2.2 of the Covenant Not To Sue, if PACT claims that it is not obligated
5 under the agreement based on assignment of any of the Asserted Claims of the Patents-in-Suit that are
6 FSB Patent Rights, then “Intel shall have a nonexclusive, nontransferable license . . . under such
7 assigned FSB Patent Rights to make, use, sell, offer for sale and import Intel’s Products” which
8 “conditional license shall survive any termination or expiration of [the Covenant Not To Sue] and shall
9 remain in full force and effect until mutually agreed otherwise by the parties.”

10 54. PACT’s infringement claims against Intel respecting at least the Asserted Claims of the
11 Patents-in-Suit are based at least in part on, and on their face encompass, the alleged making, using,
12 selling, offering to sell, and importing into the United States the following respective Accused
13 Products (as defined in PACT’s Complaint), and PACT’s claims are accordingly barred by the
14 Covenant Not To Sue: claim 1 of the ’763 Patent and the Accused Core Instrumentalities and the
15 Accused Xeon Instrumentalities; claim 2 of the ’872 Patent and the Accused Core Instrumentalities
16 and the Accused Xeon Instrumentalities; claim 10 of the ’301 Patent and the Accused Turbo Boost 3.0
17 Instrumentalities; claim 1 of the ’593 Patent and the Accused Core Instrumentalities and the Accused
18 Xeon Instrumentalities; claim 39 of the ’549 Patent and the Accused Stacking Instrumentalities; claim
19 27 of the ’505 Patent and the Accused ’505 Instrumentalities; claim 1 of the ’807 Patent and the
20 Accused Core Instrumentalities and the Accused Xeon Instrumentalities; claim 1 of the ’605 Patent
21 and the Accused Turbo Boost Instrumentalities; claim 12 of the ’812 Patent and the Accused Core
22 Instrumentalities; claim 4 of the ’908 Patent and the Accused Core Instrumentalities and the Accused
23 Xeon Instrumentalities; claim 1 of the ’631 Patent and the Accused Core Instrumentalities and the
24 Accused Xeon Instrumentalities; and claim 1 of the ’047 Patent and the Accused Turbo Boost
25 Instrumentalities.

26 55. As a result of the acts described above, there exists a substantial controversy of
27 sufficient immediacy and reality to warrant the issuance of a declaratory judgment, and a judicial
28

1 declaration is necessary and appropriate so that Intel may ascertain its rights with respect to the
2 Patents-in-Suit.

3 56. Intel is entitled to a judicial declaration that PACT may not assert at least any of the
4 Asserted Claims of the Patents-in-Suit against Intel and a finding that PACT is in breach of the
5 Covenant Not To Sue.

6 57. Intel is entitled to all remedies provided under law, including monetary damages and
7 specific performance by PACT to dismiss any claims of patent infringement by PACT concerning the
8 Asserted Claims of the Patents-in-Suit.

9 **COUNT II**
10 **DECLARATION OF NONINFRINGEMENT OF U.S. PATENT NO. 7,928,763**

11 58. Intel repeats and realleges the allegations in paragraphs 1–57 of its Complaint.

12 59. PACT alleges that Intel Products including the Accused Core Instrumentalities and the
13 Accused Xeon Instrumentalities infringe one or more claims of the '763 Patent. For example, PACT
14 alleges that the Accused Core Instrumentalities and the Accused Xeon Instrumentalities embody every
15 limitation of claim 1 of the '763 Patent, literally or under the Doctrine of Equivalents. *See* Ex. 3 at ¶¶
16 36-59.

17 60. Intel has not infringed and does not infringe, either directly or indirectly, any valid and
18 enforceable claim of the '763 Patent, either literally or under the Doctrine of Equivalents. For
19 example, the accused Intel Core and Xeon processors with Sandy Bridge and above microarchitectures
20 do not infringe, directly or indirectly, any asserted claim of the '763 Patent at least because the accused
21 processors do not include a bus system “adapted for programmably interconnecting at runtime at least
22 one of data processing cells and memory cells with at least one of memory cells and one or more of
23 the at least one interface unit,” as required by the asserted claims of the '763 Patent.

24 61. As a result of the acts described in the foregoing paragraphs, there exists a substantial
25 controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

26 62. A judicial declaration is necessary and appropriate so that Intel may ascertain its rights
27 regarding the '763 Patent.
28

63. Intel is entitled to a judicial declaration that it has not infringed and does not infringe the '763 Patent.

COUNT III
DECLARATION OF NONINFRINGEMENT OF U.S. PATENT NO. 8,301,872

64. Intel repeats and realleges the allegations in paragraphs 1–63 of its Complaint.

65. PACT alleges that Intel Products including the Accused Core Instrumentalities and the Accused Xeon Instrumentalities infringe one or more claims of the '872 Patent. For example, PACT alleges that the Accused Core Instrumentalities and the Accused Xeon Instrumentalities embody every limitation of claim 2 of the '872 Patent, literally or under the Doctrine of Equivalents. *See* Ex. 3 at ¶¶ 60-86.

66. Intel has not infringed and does not infringe, either directly or indirectly, any valid and enforceable claim of the '872 Patent, either literally or under the Doctrine of Equivalents. For example, the accused Intel Core and Xeon processors with Sandy Bridge and above microarchitectures do not infringe, directly or indirectly, any asserted claim of the '872 Patent at least because the accused processors do not include “at least one superior cache level including a plurality of same level cache nodes each including an internal cache memory” as required by the asserted claims of the '872 Patent.

67. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

68. A judicial declaration is necessary and appropriate so that Intel may ascertain its rights regarding the '872 Patent.

69. Intel is entitled to a judicial declaration that it has not infringed and does not infringe the '872 Patent.

COUNT IV
DECLARATION OF NONINFRINGEMENT OF U.S. PATENT NO. 8,312,301

70. Intel repeats and realleges the allegations in paragraphs 1–69 of its Complaint.

71. PACT alleges that Intel Products including the Accused Turbo Boost 3.0 Instrumentalities infringe one or more claims of the '301 Patent. For example, PACT alleges that the

1 Accused Turbo Boost 3.0 Instrumentalities embody every limitation of claim 10 of the '301 Patent,
2 literally or under the Doctrine of Equivalents. *See* Ex. 3 at ¶¶ 87-109.

3 72. Intel has not infringed and does not infringe, either directly or indirectly, any valid and
4 enforceable claim of the '301 Patent, either literally or under the Doctrine of Equivalents. For
5 example, the accused Intel processors with Turbo Boost Max Technology 3.0 do not infringe, directly
6 or indirectly, any asserted claim of the '301 Patent at least because the accused processors do not have
7 “a software adapted to be executed to . . . assign to each of the code sections a respective clock
8 frequency,” as required by the asserted claims of the '301 Patent.

9 73. As a result of the acts described in the foregoing paragraphs, there exists a substantial
10 controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

11 74. A judicial declaration is necessary and appropriate so that Intel may ascertain its rights
12 regarding the '301 Patent.

13 75. Intel is entitled to a judicial declaration that it has not infringed and does not infringe
14 the '301 Patent.

15 **COUNT V**
16 **DECLARATION OF NONINFRINGEMENT OF U.S. PATENT NO. 8,471,593**

17 76. Intel repeats and realleges the allegations in paragraphs 1–75 of its Complaint.

18 77. PACT alleges that Intel Products including the Accused Core Instrumentalities and the
19 Accused Xeon Instrumentalities infringe one or more claims of the '593 Patent. For example, PACT
20 alleges that the Accused Core Instrumentalities and the Accused Xeon Instrumentalities embody every
21 limitation of claim 1 of the '593 Patent, literally or under the Doctrine of Equivalents. *See* Ex. 3 at ¶¶
22 110-133.

23 78. Intel has not infringed and does not infringe, either directly or indirectly, any valid and
24 enforceable claim of the '593 Patent, either literally or under the Doctrine of Equivalents. For
25 example, the accused Intel Core and Xeon processors with Sandy Bridge and above microarchitectures
26 do not infringe, directly or indirectly, any asserted claim of the '593 Patent at least because the accused
27 processors do not include a bus system wherein “at least some of the data processing cores includes a
28

1 physically dedicated connection to at least one physically assigned one of the plurality of memory
2 units” as required by the asserted claims of the ’593 Patent.

3 79. As a result of the acts described in the foregoing paragraphs, there exists a substantial
4 controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

5 80. A judicial declaration is necessary and appropriate so that Intel may ascertain its rights
6 regarding the ’593 Patent.

7 81. Intel is entitled to a judicial declaration that it has not infringed and does not infringe
8 the ’593 Patent.

9 **COUNT VI**
10 **DECLARATION OF NONINFRINGEMENT OF U.S. PATENT NO. 8,686,549**

11 82. Intel repeats and realleges the allegations in paragraphs 1–81 of its Complaint.

12 83. PACT alleges that Intel Products including the Accused Core Instrumentalities, the
13 Accused Xeon Instrumentalities, Atom processors, and/or the Accused Stacking Instrumentalities
14 infringe one or more claims of the ’549 Patent. For example, PACT alleges that these instrumentalities
15 embody every limitation of claim 39 of the ’549 Patent, literally or under the Doctrine of Equivalents.
16 *See* Ex. 3 at ¶¶ 134-158.

17 84. Intel has not infringed and does not infringe, either directly or indirectly, any valid and
18 enforceable claim of the ’549 Patent, either literally or under the Doctrine of Equivalents. For
19 example, the Accused Stacking Instrumentalities (as this term is used by PACT) do not infringe,
20 directly or indirectly, any asserted claim of the ’549 Patent at least because they do not include “an
21 arrangement of programmable data processing units,” or an “interconnect structure [that] includes
22 switches,” as required by the asserted claims of the ’549 Patent.

23 85. As a result of the acts described in the foregoing paragraphs, there exists a substantial
24 controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

25 86. A judicial declaration is necessary and appropriate so that Intel may ascertain its rights
26 regarding the ’549 Patent.

27 87. Intel is entitled to a judicial declaration that it has not infringed and does not infringe
28 the ’549 Patent.

COUNT VII
DECLARATION OF NONINFRINGEMENT OF U.S. PATENT NO. 8,819,505

88. Intel repeats and realleges the allegations in paragraphs 1–87 of its Complaint.

89. PACT alleges that Intel Products including the Accused '505 Instrumentalities infringe one or more claims of the '505 Patent. For example, PACT alleges that the Accused '505 Instrumentalities embody every limitation of claim 27 of the '505 Patent, literally or under the Doctrine of Equivalents. *See* Ex. 3 at ¶¶ 159-181.

90. Intel has not infringed and does not infringe, either directly or indirectly, any valid and enforceable claim of the '505 Patent, either literally or under the Doctrine of Equivalents. For example, the accused Intel Xeon processors with nine or more cores do not infringe, directly or indirectly, any asserted claim of the '505 Patent at least because the accused processors do not have “wherein, in view of a probability of the chip having defects already when being manufactured . . . so that some of the data processing cores can be exempted from data transfer in response to a chip test” as required by the asserted claims of the '505 Patent.

91. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

92. A judicial declaration is necessary and appropriate so that Intel may ascertain its rights regarding the '505 Patent.

93. Intel is entitled to a judicial declaration that it has not infringed and does not infringe the '505 Patent.

COUNT VIII
DECLARATION OF NONINFRINGEMENT OF U.S. PATENT NO. 9,037,807

94. Intel repeats and realleges the allegations in paragraphs 1–93 of its Complaint.

95. PACT alleges that Intel Products including the Accused Core Instrumentalities and the Accused Xeon Instrumentalities infringe one or more claims of the '807 Patent. For example, PACT alleges that the Accused Core Instrumentalities and the Accused Xeon Instrumentalities embody every limitation of claim 1 of the '807 Patent, literally or under the Doctrine of Equivalents. *See* Ex. 3 at ¶¶ 182-205.

1 with a number of pending operations of a first processor,” as required by the asserted claims of the
2 ’605 Patent.

3 103. As a result of the acts described in the foregoing paragraphs, there exists a substantial
4 controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

5 104. A judicial declaration is necessary and appropriate so that Intel may ascertain its rights
6 regarding the ’605 Patent.

7 105. Intel is entitled to a judicial declaration that it has not infringed and does not infringe
8 the ’605 Patent.

9 **COUNT X**
10 **DECLARATION OF NONINFRINGEMENT OF U.S. PATENT NO. 9,170,812**

11 106. Intel repeats and realleges the allegations in paragraphs 1–105 of its Complaint.

12 107. PACT alleges that Intel Products including the Accused Core Instrumentalities infringe
13 one or more claims of the ’812 Patent. For example, PACT alleges that the Accused Core
14 Instrumentalities embody every limitation of claim 12 of the ’812 Patent, literally or under the Doctrine
15 of Equivalents. *See* Ex. 3 at ¶¶ 229-250.

16 108. Intel has not infringed and does not infringe, either directly or indirectly, any valid and
17 enforceable claim of the ’812 Patent, either literally or under the Doctrine of Equivalents. For example,
18 the accused Intel Core processors with Sandy Bridge and above microarchitectures do not infringe,
19 directly or indirectly, any asserted claim of the ’812 Patent at least because the accused processors do
20 not include “[a]n integrated circuit data processor device comprising . . . an instruction dispatch unit
21 separate from the data processor core connected to the array data processor, the instruction dispatch
22 unit configured to dispatch software threads to the array data processor for parallel execution by the
23 parallel processing arithmetic units,” as required by the asserted claims of the ’812 Patent.

24 109. As a result of the acts described in the foregoing paragraphs, there exists a substantial
25 controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

26 110. A judicial declaration is necessary and appropriate so that Intel may ascertain its rights
27 regarding the ’812 Patent.
28

111. Intel is entitled to a judicial declaration that it has not infringed and does not infringe the '812 Patent.

COUNT XI
DECLARATION OF NONINFRINGEMENT OF U.S. PATENT NO. 9,250,908

112. Intel repeats and realleges the allegations in paragraphs 1–111 of its Complaint.

113. PACT alleges that Intel Products including the Accused Core Instrumentalities and the Accused Xeon Instrumentalities infringe one or more claims of the '908 Patent. For example, PACT alleges that the Accused Core Instrumentalities and the Accused Xeon Instrumentalities embody every limitation of claim 4 of the '908 Patent, literally or under the Doctrine of Equivalents. *See* Ex. 3 at ¶¶ 251-276.

114. Intel has not infringed and does not infringe, either directly or indirectly, any valid and enforceable claim of the '908 Patent, either literally or under the Doctrine of Equivalents. For example, the accused Intel Core and Xeon processors with Sandy Bridge and above microarchitectures do not infringe, directly or indirectly, any asserted claim of the '908 Patent at least because the accused products do not have “an interconnect system interconnecting each of the separated cache segments with each of the processors, each of the processors with neighboring processors, and each of the separated cache segments with neighboring separated cache segments,” as required by the asserted claims of the '908 Patent. Further, the accused products do not have “at least some of the plurality of processors, the at least one interface, and the at least one separated cache having a module identification (ID),” as required by the asserted claims of the '908 Patent.

115. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

116. A judicial declaration is necessary and appropriate so that Intel may ascertain its rights regarding the '908 Patent.

117. Intel is entitled to a judicial declaration that it has not infringed and does not infringe the '908 Patent.

COUNT XII
DECLARATION OF NONINFRINGEMENT OF U.S. PATENT NO. 9,436,631

118. Intel repeats and realleges the allegations in paragraphs 1–117 of its Complaint.

119. PACT alleges that Intel Products including the Accused Core Instrumentalities and the Accused Xeon Instrumentalities infringe one or more claims of the '631 Patent. For example, PACT alleges that the Accused Core Instrumentalities and the Accused Xeon Instrumentalities embody every limitation of claim 1 of the '631 Patent, literally or under the Doctrine of Equivalents. *See* Ex. 3 at ¶¶ 277-297.

120. Intel has not infringed and does not infringe, either directly or indirectly, any valid and enforceable claim of the '631 Patent, either literally or under the Doctrine of Equivalents. For example, the accused Intel Core and Xeon processors with Sandy Bridge and above microarchitectures do not infringe, directly or indirectly, any asserted claim of the '631 Patent at least because the accused products do not have “a plurality of bus segments for each processor of the multiprocessor system comprising a plurality of flexible data channels to each processor of the multiprocessor system according to algorithms to be executed, wherein a plurality of algorithms may executed in parallel,” as required by the asserted claims of the '631 Patent.

121. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

122. A judicial declaration is necessary and appropriate so that Intel may ascertain its rights regarding the '631 Patent.

123. Intel is entitled to a judicial declaration that it has not infringed and does not infringe the '631 Patent.

COUNT XIII
DECLARATION OF NONINFRINGEMENT OF U.S. PATENT NO. 9,522,047

124. Intel repeats and realleges the allegations in paragraphs 1–123 of its Complaint.

125. PACT alleges that Intel Products including the Accused Turbo Boost Instrumentalities infringe one or more claims of the '047 Patent. For example, PACT alleges that the Accused Turbo Boost Instrumentalities embody every limitation of claim 1 of the '047 Patent, literally or under the Doctrine of Equivalents. *See* Ex. 3 at ¶¶ 298-322.

126. Intel has not infringed and does not infringe, either directly or indirectly, any valid and enforceable claim of the '047 Patent, either literally or under the Doctrine of Equivalents. For example, the accused Intel processors with a GPU with the Turbo Boost feature do not infringe, directly or indirectly, any asserted claim of the '047 Patent at least because the accused processors do not have "each of the data processing units . . . being adaptable for sequentially processing data in a clocked manner," as required by the asserted claims of the '047 Patent.

127. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

128. A judicial declaration is necessary and appropriate so that Intel may ascertain its rights regarding the '047 Patent.

129. Intel is entitled to a judicial declaration that it has not infringed and does not infringe the '047 Patent.

JURY DEMAND

130. Pursuant to Fed. R. Civ. P. Rule 38(b), Intel hereby demands a trial by jury on all issues and claims so triable.

PRAYER FOR RELIEF

WHEREFORE, Intel requests that judgment be entered in its favor and prays that the Court grant the following relief:

131. An order enjoining PACT and its officers, agents, servants, employees, attorneys, and those in active concert or participation with them from asserting infringement or instituting or continuing any action for infringement of the Patents-in-Suit against Intel or its subsidiaries, affiliates, customers (direct or indirect), distributors (direct or indirect), agents (direct or indirect), or contractors (direct or indirect);

132. A declaration that Intel has not infringed and does not infringe, either directly or indirectly, any valid and enforceable claim of United States Patent Nos. 7,928,763, 8,301,872, 8,312,301, 8,471,593, 8,686,549, 8,819,505, 9,037,807, 9,075,605, 9,170,812, 9,250,908, 9,436,631, and 9,552,047, either literally or under the Doctrine of Equivalents;

1 133. All remedies provided under law, including monetary damages and specific
2 performance by PACT to dismiss any claims of patent infringement by PACT concerning the Asserted
3 Claims of the Patents-in-Suit based on breach of the Covenant Not To Sue.

4 134. An order declaring that this is an exceptional case, and awarding Intel its costs and
5 reasonable attorney fees under 35 U.S.C. ¶ 285; and

6 Such other and further relief as this Court may deem just and proper.

7
8 DATED: April 25, 2019

Respectfully submitted,
KIRKLAND & ELLIS LLP

9
10 /s/ Adam Alper

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