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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

Case No. _____

6:07-CV-734-ORL-28-JGG

AUTHENTEC, INC.,

Plaintiff,

vs.

ATMEL CORPORATION,
ATMEL SWITZERLAND,
ATMEL FRANCE, ATMEL SARL,

Defendants.
_____/

DEFENDANT AUTHENTEC, INC.'S COMPLAINT FOR DECLARATORY JUDGMENT AND DEMAND FOR JURY TRIAL

For its complaint against Defendants Atmel Corporation, Atmel Switzerland, Atmel France, and Atmel SARL (collectively, the "Atmel Defendants"), Plaintiff AuthenTec, Inc. ("AuthenTec") alleges as follows:

NATURE OF THE CASE, JURISDICTION, AND VENUE

1. This is a case for a declaratory judgment of non-infringement and invalidity of two U.S. Patents allegedly owned by one or more of the Atmel Defendants.

2. This Court has subject matter jurisdiction over the claims in this case pursuant to 28 U.S.C. §§ 1331, 1338, and 2201-2202.

3. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and 1400(b).

THE PARTIES

4. Plaintiff AuthenTec is a Delaware corporation with a principal place of

business in Melbourne, Florida.

5. On information and belief, Defendant Atmel Corporation is a Delaware corporation with a principal place of business in San Jose, California. On information and belief, Atmel Corporation regularly conducts and transacts business in this District. Further, as detailed in paragraphs 9-12 below, Atmel Corporation has directed actions towards AuthenTec, resident in this District, which have created the present case and controversy between the parties.

6. On information and belief, Defendant Atmel Switzerland is a Swiss corporation with a principal place of business in Switzerland. On information and belief, Atmel Corporation regularly conducts and transacts business in this District. Further, as detailed in paragraphs 9-12 below, Atmel Switzerland has directed actions towards AuthenTec, resident in this District, which have created the present case and controversy between the parties.

7. On information and belief, Defendant Atmel France is a French corporation with a principal place of business in France. On information and belief, Atmel France regularly conducts and transacts business in this District. Further, as detailed in paragraphs 9-12 below, Atmel France has directed actions towards AuthenTec, resident in this District, which have created the present case and controversy between the parties.

8. On information and belief, Defendant Atmel SARL is a French corporation with a principal place of business in France. On information and belief, Atmel SARL regularly conducts and transacts business in this District. Further, as detailed in paragraphs 9-12 below, Atmel SARL has directed actions towards AuthenTec, resident in this District, which have created the present case and controversy between the parties.

FACTS ESTABLISHING CASE OR CONTROVERSY

9. On March 22, 2006, Atmel Corporation filed a patent infringement lawsuit against AuthenTec in the Northern District of California captioned *Atmel Corp. v. AuthenTec, Inc.*, Case No. C 06-02138 CW (the "California Litigation"), alleging that AuthenTec infringes U.S. Patent No. 6,289,114 (the "'114 patent"). A copy of the original complaint in the California Litigation, which includes a copy of the '114 patent, is attached hereto as Exhibit A.

10. On November 1, 2006, all of the Atmel Defendants joined in filing a First Amended Complaint in the California Litigation. In addition to alleging infringement of the '114 patent, the First Amended Complaint alleges infringement of U.S. Patent No. 6,459,804 (the "'804 patent"). A copy of the First Amended Complaint, which includes a copy of the '804 patent, is attached hereto as Exhibit B.

11. AuthenTec denies that it infringes either the '114 patent or the '804 patent.

12. As a result of the Atmel Defendants' allegations of infringement, and AuthenTec's denial of infringement, a justiciable case or controversy exists between the parties regarding their respective rights in relation to the '114 patent and '804 patents.

COUNT 1

(Declaration of Non-Infringement of the '114 Patent)

13. AuthenTec realleges Paragraphs 1 through 13 as if set forth herein.

14. No current or former AuthenTec product infringes any valid claim of the '114 Patent, and on that basis, AuthenTec requests declaratory judgment that it does not and has not infringed the '114 Patent.

COUNT 2

(Declaration of Invalidity of the '114 Patent)

15. AuthenTec realleges Paragraphs 1 through 15 as if set forth herein.

16. On information and belief, the '114 Patent is invalid for failure to comply with the requirements of 35 U.S.C. §§ 101, 102, 103, 112, 115, 116 and/or other statutory requirements, and on that basis, AuthenTec requests declaratory judgment that the '114 Patent is invalid.

COUNT 3

(Declaration of Non-Infringement of the '804 Patent)

17. AuthenTec realleges Paragraphs 1 through 17 as if set forth herein.

18. No current or former AuthenTec product infringes any valid claim of the '804 Patent, and on that basis, AuthenTec requests declaratory judgment that it does not and has not infringed the '804 Patent.

COUNT 4

(Declaration of Invalidity of the '804 Patent)

19. AuthenTec realleges Paragraphs 1 through 19 as if set forth herein.

20. On information and belief, the '804 Patent is invalid for failure to comply with the requirements of 35 U.S.C. §§ 101, 102, 103, 112, 115, 116 and/or other statutory requirements, and on that basis, AuthenTec requests declaratory judgment that the '804 Patent is invalid.

PRAYER FOR RELIEF

WHEREFORE, AuthenTec respectfully prays for the following relief:

A. That this Court declare that AuthenTec does not and has not infringed any valid claim of the '114 patent;

B. That this Court declare the '114 patent invalid;

C. That this Court declare that AuthenTec does not and has not infringed any valid claim of the '804 patent;

D. that this Court declare the '804 patent invalid;

E. that this Court declare the case to be exceptional pursuant to 35 U.S.C. § 285 and that costs of this action and attorneys' fees be awarded to AuthenTec;

F. that this Court grant such other and further relief to AuthenTec as this Court may deem just and equitable and as the Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff AuthenTec hereby demands trial by jury in this action.

DATED: April 30th, 2007

Respectfully submitted,

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