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11 ATTORNEYS FOR DEFENDANT WI-LAN INC.

12  
 13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION

15 INTEL CORPORATION,  
 16 Plaintiff,  
 17 v.  
 18 WI-LAN INC., WI-LAN TECHNOLOGIES  
 CORPORATION, WI-LAN TECHNOLOGIES,  
 19 INC., and WI-LAN V-CHIP CORP.,  
 20 Defendants.  
 21

Case No. 5:08-cv-4555 JW (HRL)  
**WI-LAN INC.'S ANSWER TO AMENDED  
 COMPLAINT FOR DECLARATORY  
 JUDGMENT**  
**DEMAND FOR JURY TRIAL**

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**ANSWER**

Defendant Wi-LAN Inc. (“Wi-LAN”) files this Answer to Plaintiff Intel Corporation’s (“Plaintiff”) Amended Complaint for Declaratory Judgment, filed September 30, 2008.

**NATURE OF THE ACTION**

1. Answering the allegations in Paragraph 1, Wi-LAN admits that this is an action for declaratory judgment of non-infringement and invalidity of seventeen (17) United States Patents pursuant to the Declaratory Judgment Act. Wi-LAN admits that this is an action for declaratory judgment of unenforceability of one (1) United States Patent pursuant to the Declaratory Judgment Act.

**INTRADISTRICT ASSIGNMENT**

2. Answering the allegations in Paragraph 2, Wi-LAN admits that it met with Intel in Santa Clara County in September 2006. Wi-LAN admits that Intel’s headquarters is located in Santa Clara County. Wi-LAN is without sufficient knowledge or information to form a belief regarding the location of Intel employees with knowledge of the products likely to be at issue in this action and therefore denies such allegations. Wi-LAN denies the remaining allegations of this paragraph.

**PARTIES**

- 3. Upon information and belief, Wi-LAN admits the allegations in Paragraph 3.
- 4. Wi-LAN admits the allegations in Paragraph 4.
- 5. The allegations in Paragraph 5 are not directed to Wi-LAN, and therefore no answer is required.
- 6. The allegations in Paragraph 6 are not directed to Wi-LAN, and therefore no answer is required.



**THE PATENTS**

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12. Wi-LAN admits the allegations in Paragraph 12.

13. Wi-LAN admits the allegations in Paragraph 13.

14. Wi-LAN admits the allegations in Paragraph 14.

15. Answering the allegations in Paragraph 15, Wi-LAN admits that U.S. Patent No. 6,683,866 (“the ‘866 patent”) is entitled “Method and Apparatus for Data Transportation and Synchronization Between MAC and Physical Layers in a Wireless Communication System.” Wi-LAN denies that the ‘866 patent bears an issuance date of January 27, 2007. Wi-LAN avers that the ‘866 patent bears an issuance date of January 27, 2004. Wi-LAN admits that a copy of the ‘866 patent is attached as Exhibit 4 to Plaintiff’s Amended Complaint.

16. Wi-LAN admits the allegations in Paragraph 16.

17. Wi-LAN admits the allegations in Paragraph 17.

18. Wi-LAN admits the allegations in Paragraph 18.

19. Wi-LAN admits the allegations in Paragraph 19.

20. Wi-LAN admits the allegations in Paragraph 20.

21. Wi-LAN admits the allegations in Paragraph 21.

22. Wi-LAN admits the allegations in Paragraph 22.

23. Wi-LAN admits the allegations in Paragraph 23.

24. Wi-LAN admits the allegations in Paragraph 24.

25. Wi-LAN admits the allegations in Paragraph 25.

26. Wi-LAN admits the allegations in Paragraph 26.

27. Wi-LAN admits the allegations in Paragraph 27.

28. Wi-LAN admits the allegations in Paragraph 28.

29. Wi-LAN admits the allegations in Paragraph 29.

**COUNT I - DECLARATION OF NONINFRINGEMENT**  
**OF U.S. PATENT NO. 6,459,687**

30. Answering the allegations in Paragraph 30, Wi-LAN incorporates by reference paragraphs 1-29 as if fully set forth herein.

31. Wi-LAN is without sufficient knowledge or information to form a belief regarding the allegations in Paragraph 31 and therefore denies such allegations.

32. Wi-LAN denies the allegations in Paragraph 32.

33. Wi-LAN denies the allegations in Paragraph 33.

**COUNT II - DECLARATION OF INVALIDITY OF U.S. PATENT NO. 6,459,687**

34. Answering the allegations in Paragraph 34, Wi-LAN incorporates by reference paragraphs 1-33 as if fully set forth herein.

35. Wi-LAN denies the allegations in Paragraph 35.

36. Wi-LAN denies the allegations in Paragraph 36.

37. Wi-LAN denies the allegations in Paragraph 37.

**COUNT III - DECLARATION OF NONINFRINGEMENT**  
**OF U.S. PATENT NO. 6,549,759**

38. Answering the allegations in Paragraph 38, Wi-LAN incorporates by reference paragraphs 1-37 as if fully set forth herein.

39. This Count has been transferred to the Eastern District of Texas. As such, no response is required.

40. This Count has been transferred to the Eastern District of Texas. As such, no response is required.

41. This Count has been transferred to the Eastern District of Texas. As such, no response is required.

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**COUNT IV - DECLARATION OF INVALIDITY**  
**OF U.S. PATENT NO. 6,549,759**

42. Answering the allegations in Paragraph 42, Wi-LAN incorporates by reference paragraphs 1-41 as if fully set forth herein.

43. This Count has been transferred to the Eastern District of Texas. As such, no response is required.

44. This Count has been transferred to the Eastern District of Texas. As such, no response is required.

45. This Count has been transferred to the Eastern District of Texas. As such, no response is required.

**COUNT V - DECLARATION OF UNENFORCEABILITY**  
**OF U.S. PATENT NO. 6,549,759**

46. Answering the allegations in Paragraph 46, Wi-LAN incorporates by reference paragraphs 1-45 as if fully set forth herein.

47. This Count has been transferred to the Eastern District of Texas. As such, no response is required.

48. This Count has been transferred to the Eastern District of Texas. As such, no response is required.

49. This Count has been transferred to the Eastern District of Texas. As such, no response is required.

50. This Count has been transferred to the Eastern District of Texas. As such, no response is required.

51. This Count has been transferred to the Eastern District of Texas. As such, no response is required.

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**COUNT VI - DECLARATION OF NONINFRINGEMENT**  
**OF U.S. PATENT NO. 6,577,863**

53. Answering the allegations in Paragraph 53, Wi-LAN incorporates by reference paragraphs 1-52 as if fully set forth herein.

54. Wi-LAN is without sufficient knowledge or information to form a belief regarding the allegations in Paragraph 54 and therefore denies such allegations.

55. Wi-LAN denies the allegations in Paragraph 55.

56. Wi-LAN denies the allegations in Paragraph 56.

**COUNT VII - DECLARATION OF INVALIDITY OF U.S. PATENT NO. 6,577,863**

57. Answering the allegations in Paragraph 57, Wi-LAN incorporates by reference paragraphs 1-56 as if fully set forth herein.

58. Wi-LAN denies the allegations in Paragraph 58.

59. Wi-LAN denies the allegations in Paragraph 59.

60. Wi-LAN denies the allegations in Paragraph 60.

**COUNT VIII - DECLARATION OF NONINFRINGEMENT**  
**OF U.S. PATENT NO. 6,683,866**

61. Answering the allegations in Paragraph 61, Wi-LAN incorporates by reference paragraphs 1-60 as if fully set forth herein.

62. Wi-LAN is without sufficient knowledge or information to form a belief regarding the allegations in Paragraph 62 and therefore denies such allegations.

63. Wi-LAN denies the allegations in Paragraph 63.

64. Wi-LAN denies the allegations in Paragraph 64.



1 78. Wi-LAN is without sufficient knowledge or information to form a belief  
2 regarding the allegations in Paragraph 78 and therefore denies such allegations.

3 79. Wi-LAN denies the allegations in Paragraph 79.

4 80. Wi-LAN denies the allegations in Paragraph 80.

5  
6 **COUNT XIII - DECLARATION OF INVALIDITY**

7 **OF U.S. PATENT NO. 6,728,514**

8 81. Answering the allegations in Paragraph 81, Wi-LAN incorporates by reference  
9 paragraphs 1-80 as if fully set forth herein.

10 82. Wi-LAN denies the allegations in Paragraph 82.

11 83. Wi-LAN denies the allegations in Paragraph 83.

12 84. Wi-LAN denies the allegations in Paragraph 84.

13  
14 **COUNT XIV - DECLARATION OF NONINFRINGEMENT**

15 **OF U.S. PATENT NO. 6,804,211**

16 85. Answering the allegations in Paragraph 85, Wi-LAN incorporates by reference  
17 paragraphs 1-84 as if fully set forth herein.

18 86. Wi-LAN is without sufficient knowledge or information to form a belief  
19 regarding the allegations in Paragraph 86 and therefore denies such allegations.

20 87. Wi-LAN denies the allegations in Paragraph 87.

21 88. Wi-LAN denies the allegations in Paragraph 88.

22  
23 **COUNT XV - DECLARATION OF INVALIDITY OF U.S. PATENT NO. 6,804,211**

24 89. Answering the allegations in Paragraph 89, Wi-LAN incorporates by reference  
25 paragraphs 1-88 as if fully set forth herein.

26 90. Wi-LAN denies the allegations in Paragraph 90.

27 91. Wi-LAN denies the allegations in Paragraph 91.

1 92. Wi-LAN denies the allegations in Paragraph 92.

2  
3 **COUNT XVI - DECLARATION OF NONINFRINGEMENT**

4 **OF U.S. PATENT NO. 6,925,068**

5 93. Answering the allegations in Paragraph 93, Wi-LAN incorporates by reference  
6 paragraphs 1-92 as if fully set forth herein.

7 94. Wi-LAN is without sufficient knowledge or information to form a belief  
8 regarding the allegations in Paragraph 94 and therefore denies such allegations.

9 95. Wi-LAN denies the allegations in Paragraph 95.

10 96. Wi-LAN denies the allegations in Paragraph 96.

11  
12 **COUNT XVII - DECLARATION OF INVALIDITY**

13 **OF U.S. PATENT NO. 6,925,068**

14 97. Answering the allegations in Paragraph 97, Wi-LAN incorporates by reference  
15 paragraphs 1-96 as if fully set forth herein.

16 98. Wi-LAN denies the allegations in Paragraph 98.

17 99. Wi-LAN denies the allegations in Paragraph 99.

18 100. Wi-LAN denies the allegations in Paragraph 100.

19  
20 **COUNT XVIII - DECLARATION OF UNENFORCEABILITY**

21 **OF U.S. PATENT NO. 6,925,068**

22 101. Answering the allegations in Paragraph 101, Wi-LAN incorporates by reference  
23 paragraphs 1-100 as if fully set forth herein.

24 102. Wi-LAN admits that it cannot enforce the '068 patent to the extent proscribed by  
25 37 C.F.R. 1.321 but otherwise denies the allegations of this paragraph.

26 103. Wi-LAN denies the allegations in Paragraph 103.

27 104. Wi-LAN denies the allegations in Paragraph 104.



**COUNT XXII - DECLARATION OF INVALIDITY**

**OF U.S. PATENT NO. 6,956,834**

117. Answering the allegations in Paragraph 117, Wi-LAN incorporates by reference paragraphs 1-116 as if fully set forth herein.

118. Wi-LAN denies the allegations in Paragraph 118.

119. Wi-LAN denies the allegations in Paragraph 119.

120. Wi-LAN denies the allegations in Paragraph 120.

**COUNT XXIII - DECLARATION OF NONINFRINGEMENT**

**OF U.S. PATENT NO. 6,963,617**

121. Answering the allegations in Paragraph 121, Wi-LAN incorporates by reference paragraphs 1-120 as if fully set forth herein.

122. Wi-LAN is without sufficient knowledge or information to form a belief regarding the allegations in Paragraph 122 and therefore denies such allegations.

123. Wi-LAN denies the allegations in Paragraph 123.

124. Wi-LAN denies the allegations in Paragraph 124.

**COUNT XXIV - DECLARATION OF INVALIDITY**

**OF U.S. PATENT NO. 6,963,617**

125. Answering the allegations in Paragraph 125, Wi-LAN incorporates by reference paragraphs 1-124 as if fully set forth herein.

126. Wi-LAN denies the allegations in Paragraph 126.

127. Wi-LAN denies the allegations in Paragraph 127.

128. Wi-LAN denies the allegations in Paragraph 128.



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**COUNT XXVIII - DECLARATION OF INVALIDITY**

**OF U.S. PATENT NO. 7,023,798**

141. Answering the allegations in Paragraph 141, Wi-LAN incorporates by reference paragraphs 1-140 as if fully set forth herein.

142. Wi-LAN denies the allegations in Paragraph 142.

143. Wi-LAN denies the allegations in Paragraph 143.

144. Wi-LAN denies the allegations in Paragraph 144.

**COUNT XXIX - DECLARATION OF NONINFRINGEMENT**

**OF U.S. PATENT NO. 7,177,598**

145. Answering the allegations in Paragraph 145, Wi-LAN incorporates by reference paragraphs 1-144 as if fully set forth herein.

146. Wi-LAN is without sufficient knowledge or information to form a belief regarding the allegations in Paragraph 146 and therefore denies such allegations.

147. Wi-LAN denies the allegations in Paragraph 147.

148. Wi-LAN denies the allegations in Paragraph 148.

**COUNT XXX - DECLARATION OF INVALIDITY**

**OF U.S. PATENT NO. 7,177,598**

149. Answering the allegations in Paragraph 149, Wi-LAN incorporates by reference paragraphs 1-148 as if fully set forth herein.

150. Wi-LAN denies the allegations in Paragraph 150.

151. Wi-LAN denies the allegations in Paragraph 151.

152. Wi-LAN denies the allegations in Paragraph 152.







1 affirmative defenses by law, regardless of how such defenses are denominated herein. In  
2 addition to the affirmative defenses described below, subject to their responses above, Wi-LAN  
3 specifically reserves all rights to allege additional affirmative defenses that become known  
4 through the course of discovery.

5  
6 **FIRST AFFIRMATIVE DEFENSE**

- 7 1. This Court lacks personal jurisdiction over Wi-LAN.

8  
9 **SECOND AFFIRMATIVE DEFENSE**

- 10 2. This Court lacks subject matter jurisdiction over this declaratory judgment action.

11  
12 Dated: June 18, 2009

Respectfully submitted,

13  
14 By: /s/ Robert A. Cote

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26 **ATTORNEYS FOR DEFENDANTS**  
27 **WI-LAN INC.**

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on this 18th day of June, 2009, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document through the Court's CM/ECF system. Any other counsel of record will be served by facsimile transmission and/or first class mail.

By: /s/ Michael G. McManus  
Michael G. McManus