IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

APTIV TECHNOLOGIES LIMITED, Plaintiff, v. MICROCHIP TECHNOLOGY, INC., Defendant.	)	C.A. No. 23-307-JDW
MICROCHIP TECHNOLOGY INC. Counterclaim Plaintiff, v. APTIV TECHNOLOGIES LIMITED and APTIV SERVICES US, LLC, Counterclaim Defendants	)	

APTIV TECHNOLOGIES LIMITED'S RESPONSES AND OBJECTIONS TO MICROCHIP TECHNOLOGY INC.'S FIRST SET OF INTERROGATORIES (NOS. 1-11)

Pursuant to Federal Rules of Civil Procedure 26 and 33 and the applicable Local Rules of the U.S. District Court for the District of Delaware, Plaintiff and Counterclaim Defendant Aptiv Technologies Limited ("Aptiv"), by their undersigned attorneys, hereby responds and objects to Defendant and Counterclaim Plaintiff Microchip Technology Inc.'s ("Microchip") First Set of Interrogatories (Nos. 1-11). The following responses are based upon present information and belief and are made subject to the General Objections and Specific Objections stated below. Aptiv reserves the right to amend or supplement any of its discovery responses. The following responses shall not be construed as a waiver of any objection.

GENERAL OBJECTIONS

Each and every General Objection shall be deemed to be incorporated in full into each of the individual responses set forth below. Any Specific Objections to an interrogatory are made in addition to the General Objections, not as a replacement for them.

1. Aptiv objects to each and every interrogatory, definition, and instruction to the extent it seeks to impose any burdens inconsistent with or in addition to their obligations under the applicable statutes and rules, including Federal Rules of Civil Procedure and the Local Rules for U.S. District Court for the District of Delaware, or any order of this Court.

2. Aptiv objects to each and every interrogatory, definition, and instruction to the extent it seeks information that is protected under, without limitation, the attorney-client privilege, the work product immunity doctrine, and/or any other applicable privilege, prohibition limitation, or immunity from disclosure. Inadvertent production of such information shall not constitute the waiver of any applicable privilege, doctrine, immunity, or objection, including, but not limited to, objections on the basis of competency, confidentiality, relevancy, materiality, work product, privilege, and/or admissibility as evidence.

3. Aptiv objects to each and every interrogatory, definition, and instruction to the extent it calls for production of documents or things not in Aptiv's possession, custody, or control, and/or not obtainable by means of a reasonably diligent search, including without limitation documents of things that are not maintained by Aptiv in the normal course of business or that no longer are maintained by Aptiv.

4. Aptiv objects to each and every interrogatory, definition, and instruction to the extent it requires Aptiv to produce information in violation of a legal or contractual obligation of nondisclosure or confidentiality to a third party.

Microchip Ex. 1045, p. 2
Microchip v. Aptiv
IPR2024-00558

5. Aptiv objects to each and every interrogatory, definition, and instruction to the extent it seeks information that is already in Microchip's possession or available from a public source as to which the burden of obtaining such information is the same for Microchip as it would be for Aptiv.

6. Aptiv objects to each and every interrogatory, definition, and instruction to the extent it is overly broad, unduly burdensome, oppressive, irrelevant to the subject matter of this action, or for which the burden or prejudice associated with responding to the interrogatory would render responding to the interrogatory disproportional to the needs of the case. Aptiv further objects to each and every interrogatory, definition, and instruction to the extent it is not reasonably calculated to lead to the discovery of admissible evidence.

7. Aptiv objects to each and every interrogatory, definition, and instruction to the extent that it requires Aptiv to draw or render a legal conclusion and/or expert opinion.

8. Aptiv objects to Defendant's definition of "Aptiv," "Plaintiff," "you," and "your" to the extent that it seeks to compel Aptiv to collect or produce documents from parties from whom Aptiv has no right or obligation to collect documents.

9. Aptiv objects to each and every interrogatory to the extent that it is compound and contains discrete subparts that in fairness should be counted as distinct interrogatories under Federal Rule of Civil Procedure 33(a)(1), and reserves the right to separately count such interrogatories against the numerical limit agreed to by the Parties.

10. By responding to Microchip's First Set of Interrogatories, Aptiv does not waive any objection that may be applicable to: (a) the use, for any purpose, by Microchip of any information provided in response; or (b) the admissibility, relevance, or materiality of any of the information to any issue in this case. Moreover, a response stating that Aptiv will provide

information regarding an interrogatory does not constitute an admission that any information regarding that interrogatory exists or can be located after a reasonable search, or is known or reasonably available to Aptiv.

11. Discovery is ongoing in this action, and Aptiv has not completed their discovery or investigation into the parties' claims and defenses. Aptiv therefore objects and responds to these interrogatories based upon information in their possession after diligent inquiry at the time of the preparation of these responses. Aptiv reserves the right to amend, supplement, and/or correct its objections or responses as additional information becomes available to Aptiv, including in the course of ongoing discovery and investigation, in response to any claim construction by the Court, in response to Microchip's forthcoming invalidity contentions, or in response to Microchip's responses to Aptiv's interrogatories (or any supplement thereto).

INTERROGATORIES

INTERROGATORY NO. 1:

Separately, for each claim of the Asserted Patents[1] that Aptiv contends Microchip has infringed or is infringing, describe the facts and circumstances Concerning the alleged conception, diligence, and reduction to practice of the claim. Aptiv's response should include the dates on which the claimed invention was allegedly conceived and first reduced to practice; the location(s) where the claimed invention was allegedly conceived and first reduced to practice; the Persons (including third parties) involved with the alleged conception, diligence, and/or reduction to practice, including the nature of each Person's involvement; and the amount of time and money expended (itemized to show any payments to third parties) on the alleged conception, diligence, and/or reduction to practice.

[1] Aptiv refers to its asserted patents as the "Aptiv Asserted Patents."

RESPONSE TO INTERROGATORY NO. 1:

In addition to its General Objections, Aptiv objects to this interrogatory as overbroad, unduly burdensome, and not proportional to the needs of the case in that it calls for "the amount of time and money expended (itemized to show any payments to third parties) on the alleged conception, diligence, and/or reduction to practice." Aptiv further objects to that aspect of this interrogatory in that it seeks information that is separate and distinct from the information sought by the remainder of the interrogatory and would constitute a separate interrogatory. Aptiv will not respond to this component of the interrogatory unless and until Microchip serves a separate interrogatory seeking that information (and Aptiv reserves all rights and objections with respect to such an interrogatory, which it will lodge should Microchip elect to serve a separate interrogatory seeking that information). Aptiv further objects to this interrogatory as premature at least because it prematurely seeks information dependent on expert testimony before the deadline for exchanging expert opinions. Aptiv further objects to this interrogatory to the extent it calls for information that is so burdensome to gather, given that the events in question occurred around a decade ago, that fully responding to this interrogatory with such information would not be proportional to the needs of the case; Aptiv will take reasonable efforts to gather and provide information in response to this interrogatory (subject to remainder of its objections and responses). Aptiv further objects to the phrase "involved with the alleged conception" on the ground that it is vague and, depending on its scope could render this interrogatory unreasonably broad; Aptiv objects to identifying any person (or third party) involved in any way with the development efforts that led to the invention in the Aptiv Asserted Patents.

Discovery and Aptiv's investigation are ongoing. Aptiv reserves the right to amend or supplement its response as its investigation continues, as more information becomes available, or in response to Microchip's positions, including during expert discovery or at trial.

Subject to and without waiving the foregoing objections and qualifications, and based on Aptiv's current investigation, Aptiv responds as follows:

The claimed inventions of the Aptiv Asserted Patents resulted from the research and development efforts of the named inventors, Robert Voto, Shyambabu Yeda, and Craig Petku, while at Unwired Technology LLC (acquired by Aptiv) in the United States. Messrs. Voto, Yeda, and Petku conceived of and diligently reduced to practice the claimed inventions by at least September 26, 2013, the date of the filing of U.S. Provisional Application No. 61/882,915.

The claimed inventions provide a novel USB hub solution that can be used to support Apple CarPlay. In or around late 2012 and early 2013, the named inventors considered three potential solutions to support CarPlay: (1) a solution relying on Microchip's FlexConnect product, (2) a solution using USB On-The-Go ("OTG"), and (3) the solution they conceived and claimed in the Asserted Patents. Only the third solution supported all the features sought by the vehicle manufacturers: (1) accommodating the head unit as a first host and the iPhone as a second host while running CarPlay; (2) providing persistent USB wherein consumers would not lose the standard functionality of other downstream USB ports that are not connected to the iPhone; and (3) using a single lane configuration

The named inventors worked diligently to, and did, reduce the third solution to practice by first creating a field programmable gate array chip ("FPGA") in 2013 and, after demonstrating success of the FPGA chip, developing a custom application specific integrated circuit ("ASIC") implementing the FPGA solution. The custom ASIC (and subsequent versions

of that custom ASIC) became the hub chip that is in Aptiv's Dual Role Hub. On September 26, 2013, Aptiv filed a provisional patent application (U.S. Provisional Application No. 61/882,915) for the claimed inventions of the Aptiv Asserted Patents, which are embodied by the Dual Role Hub and the hub chip within it.

INTERROGATORY NO. 2:

Separately, for each claim of the Asserted Patents that Aptiv contends Microchip has infringed or is infringing, describe in detail all facts and circumstances relating to the earliest making, using, selling, offering for sale, or disclosure of the alleged inventions recited in such asserted claim including, without limitation, the first manufacture of the claimed invention, the first use of the claimed invention in the United States, the first public use of the claimed invention in the United States, the first offer for sale of the claimed invention in the United States, the first sale of the claimed invention in the United States, the first public disclosure of the claimed invention, and the first disclosure of the claimed invention to any other Person. Aptiv's response to this interrogatory should include, without limitation, the date on which each such event occurred, the location where each such event occurred, the Identity of each Person with knowledge of any of the foregoing, the price of any such offers for sale or sales, and the identities of all Documents (by Bates numbers) relating to any of the foregoing.

RESPONSE TO INTERROGATORY NO. 2:

In addition to its General Objections, Aptiv objects to this interrogatory as overbroad, unduly burdensome, and not proportional to the needs of the case in that it calls for "the Identity of each person with knowledge of any of the foregoing, the price of any such offers for sale or sales, and the identities of all Documents (by Bates numbers) relating to any of the foregoing." Aptiv further objects to the component of this interrogatory seeking "price of any such offers for

sale or sales" as being separate and distinct from the information sought by the remainder of the interrogatory because this would constitute a separate interrogatory. Aptiv will not respond to this component of the interrogatory unless and until Microchip serves a separate interrogatory seeking that information (and Aptiv reserves all right and objections with respect to such an interrogatory, which it will lodge should Microchip elect to serve a separate interrogatory seeking this information).

Discovery and Aptiv's investigation are ongoing. Aptiv reserves the right to amend or supplement its response as its investigation continues, as more information becomes available, or in response to Microchip's positions, including during expert discovery or at trial.

Subject to and without waiving the foregoing objections and qualifications, and based on Aptiv's current investigation, Aptiv responds as follows:

Aptiv did not make any sale of, offer to sell, or publicly use its claimed invention prior to the priority date of September 26, 2013 for the applications leading to the Aptiv Asserted Patents. In or around the fourth quarter of 2014, Aptiv contracted with General Motors to supply the Dual Role Hub. Aptiv began shipping the Dual Role Hub to customers in or around May 2015. Mike Dreon and Robert Voto are persons with knowledge of the foregoing.

INTERROGATORY NO. 3:

For each asserted claim of the Asserted Patents that Aptiv contends is entitled to a priority date other than the filing date of the specific application resulting in the Asserted Patent, provide a chart showing on a limitation-by-limitation basis, the disclosure in the priority application that provides written description support for, and enables, the corresponding limitations and/or elements of each respective asserted claim.

RESPONSE TO INTERROGATORY NO. 3:

In addition to its General Objections, Aptiv objects to this interrogatory as overly broad, vague, and unduly burdensome on the basis that it requests Aptiv provide a chart addressing each claim on a limitation-by-limitation basis. Aptiv further objects to this interrogatory to the extent that it seeks information available through other means that are more convenient, less burdensome or less expensive, including publicly available documents. Plaintiff further objects to this interrogatory to the extent that it calls for a legal conclusion.

Aptiv further objects to this interrogatory to the extent that it is premature at least because it prematurely seeks information dependent on expert testimony before the deadline for exchanging expert opinions, and because Microchip has yet to make its core technical production, and because Aptiv has not yet provided infringement contentions identifying specific claims Aptiv contends Microchip infringes.

Discovery and Aptiv's investigation are ongoing. Aptiv reserves the right to amend or supplement its response as its investigation continues, as more information becomes available, or in response to Microchip's positions, including during expert discovery or at trial.

Subject to and without waiving the foregoing objections and qualifications, and based on Aptiv's current investigation, Aptiv responds as follows:

Support for the claims of the Aptiv Asserted Patents can be found, at least, in the following portions of the provisional patent application (U.S. Application No. 61/882,915) filed September 26, 2013: pages 2, 12, 13, 17, and 18, and Figures 4, 5, and 7. By specifically identifying those portions of the provisional application, Aptiv is not contending that the other (unidentified) portions of the provision application do not provide support for the claims of the Aptiv Asserted Patents.

INTERROGATORY NO. 4:

Separately, for each claim of the Asserted Patents that Aptiv contends Microchip has infringed or is infringing, describe any secondary considerations (*e.g.*, commercial success, long-felt need, expressions of skepticism or disbelief, copying, etc.) that Aptiv contends support or refute the non-obviousness of such claim. For each such alleged secondary consideration, describe in detail the facts underlying the alleged secondary consideration, and Identify each Document (by Bates number) supporting such contention and each Person with knowledge of the facts relating to that contention.

RESPONSE TO INTERROGATORY NO. 4:

In addition to its General Objections, Aptiv objects to this interrogatory as unreasonably broad and burdensome and therefore not proportional to the needs of the case by seeking information about "all facts underlying" each secondary consideration of non-obviousness as well as identifying each document concerning that subject matter and each person having information about that subject matter. Aptiv further objects to this interrogatory as properly the subject of testimony by experts and calling for a legal conclusion.

Aptiv further objects to this interrogatory as premature at least because it seeks information pertaining to Aptiv's legal contentions before applicable rules, court orders, or the trial process requires such disclosure. Aptiv will take reasonable efforts to gather and provide information in response to this interrogatory (subject to remainder of its objections and responses).

Discovery and Aptiv's investigation are on going. Aptiv reserves the right to amend or supplement its response as its investigation continues, as more information becomes available, or in response to Microchip's positions, including during expert discovery or at trial.

Subject to and without waiving the foregoing objections and qualifications, and based on currently available information and Aptiv's current investigation, Aptiv responds as follows:

Aptiv contends that, at least, the following secondary considerations support the non-obviousness of the claimed inventions of the Aptiv Asserted Patents: commercial success, industry praise for Aptiv's innovative products, failure by Microchip to develop a solution like Aptiv's innovative products, and copying by Microchip of Aptiv's innovative products. By specifically identifying these secondary considerations, Aptiv is not contending that any other (unidentified) secondary considerations do not provide support for the non-obviousness of the claimed inventions.

At least the following facts support a finding of these secondary considerations:

Aptiv's Dual Role Hub, which embodies the claimed inventions of the Aptiv Asserted Patents, was the first USB hub product that supported CarPlay and provided all the features sought by the vehicle manufacturers: (1) accommodating the head unit as a first host and the iPhone as a second host while running CarPlay; (2) providing persistent USB; and (3) using a single lane configuration. Aptiv secured several long-term supply contracts shortly after the Dual Role Hub entered the market, including with the "Big Three" U.S. car manufacturers (General Motors ("GM"), Ford, and Fiat Chrysler Automobiles ("FCA," now Stellantis). Aptiv also received industry praise and several awards based on the claimed invention. For example, in 2016, Aptiv won the Automotive News PACE Award for the Dual Role Hub, which heralded the Dual Role Hub as solving the "vexing problem" of integrating an iPhone with a vehicle infotainment system.

Around this time, Microchip was considering two alternative solutions to CarPlay: FlexConnect and a dual lane solution. But FlexConnect did not allow for persistent USB, and

Microchip Ex. 1045, p. 11
Microchip v. Aptiv
IPR2024-00558

the dual lane solution did not allow for a single lane configuration. Microchip thus failed to offer a solution to CarPlay that met all the features sought by the vehicle manufacturers. The Dual Role Hub remained the sole product on the market that did so, until Microchip began selling its infringing Sandia products in or around 2017.

Although Microchip was aware of the Dual Role Hub by at least April 2014, Microchip was unable to develop, or market, a competing solution (even an infringing one) until 2017. Indeed, Microchip believed for months that it was not possible to achieve persistent USB in a single-lane configuration. Microchip (incorrectly) dismissed Aptiv's (then Unwired) Dual Role Hub solution as not compliant with USB or Apple's CarPlay requirements. It was not until late January 2015 at the earliest that Microchip first believed it was even technically feasible to develop a solution comparable to Aptiv's Dual Role Hub. Microchip specifically sought to develop a solution similar to Unwired's. The first patent application of the Aptiv Asserted Patents published on March 26, 2015, describing the claimed inventions embodied by the Dual Role Hub and hub chip within in. By July 2015, Microchip had a business plan for its infringing Sandia products.

In the meantime, in response to Aptiv's success with the Dual Role Hub, Microchip began a campaign to undermine Aptiv's market position. For example, in January 2015, Microchip sent a letter to Aptiv asserting meritless infringement claims. Microchip later filed suit asserting the same claims. Aptiv was found to not infringe the asserted patents at trial. *See Microchip Tech. Inc. v. Aptiv Services US, LLC*, 1:17-cv-1194-JDW, D.I. 370.

INTERROGATORY NO. 5:

For each of Aptiv's products or systems that embodies or has embodied at least one claim of any of the Asserted Patents; any products or systems licensed, currently or previously, under

any of the Asserted Patents; and any products or systems marked with the number of any of the Asserted Patents, describe in detail its design (including how such product or system operates) and development, and Identify each Document (by Bates number) relating thereto and each Person with knowledge thereof.

RESPONSE TO INTERROGATORY NO. 5:

In addition to its General Objections, Aptiv objects to this interrogatory as overbroad and unduly burdensome to the extent it asks Aptiv to "[i]dentify each Document (by Bates number) *relating to*" Aptiv's products or systems that embody the claims of the Aptiv Asserted Patents.

Aptiv further objects to this interrogatory as seeking information better suited for discovery through documents. Aptiv further objects to this interrogatory on the ground that the phrase "describe in detail its design (including how such product or system operates)" is vague and ambiguous, and depending on the meaning of that phrase renders the interrogatory so broad and burdensome that responding to it would not be proportional to the needs of the case. Aptiv further objects to this interrogatory on the ground that it calls for information not in Aptiv's possession (for example with respect to any third-party licensed products that embody the Asserted Patents) and thus should be sought from that third party. Aptiv further objects to this interrogatory on the ground that it seeks two distinct categories of information about the embodying products: the design and the development. Aptiv will respond only as to the design aspect of this interrogatory and will not respond to the development aspect until and unless Microchip serves a separate interrogatory seeking that distinct information (and Aptiv reserves all rights and objections with respect to such an interrogatory, which it will lodge should Microchip elect to serve a separate interrogatory seeking that information).

Discovery and Aptiv's investigation are ongoing. Aptiv reserves the right to amend or supplement its response as its investigation continues, as more information becomes available, or in response to Microchip's positions, including during expert discovery or at trial.

Subject to and without waiving the foregoing objections and qualifications, and based on Aptiv's current investigation, Aptiv responds as follows:

Aptiv states that the Dual Role Hub and the hub chip within it, and use of the Dual Role Hub and the chip within it, practice claimed inventions. Aptiv will supplement its response to this interrogatory to identify documents sufficient to describe the design of such products pursuant to Rule 33(d). Aptiv is unaware of any third party product embodying the claimed invention that has a license to the Aptiv Asserted Patents or which is marked with the numbers of the Asserted Patents. Individuals knowledgeable regarding the design of the Dual Role Hub and the hub chip within it include Robert Voto, Shyambabu Yeda, and Craig Petku.

INTERROGATORY NO. 6:

For each of Aptiv's products or systems that embodies or has embodied at least one claim of any of the Asserted Patents; and any products or systems licensed, currently or previously, under any of the Asserted Patents, describe in detail Aptiv's marking or attempts to mark that product or system with the numbers of any of the Asserted Patents.

RESPONSE TO INTERROGATORY NO. 6:

Discovery and Aptiv's investigation are ongoing. Aptiv reserves the right to amend or supplement its response as its investigation continues, as more information becomes available, or in response to Microchip's positions, including during expert discovery or at trial.

Subject to and without waiving the foregoing objections and qualifications, and based on Aptiv's current investigation, Aptiv responds as follows: Aptiv will produce documents

sufficient to show the efforts it took to mark any products with the numbers of the Asserted Patents, pursuant to Rule 33(d).

INTERROGATORY NO. 7:

State the amount of money that Aptiv contends it should recover for Microchip's alleged infringement of each of the Asserted Patents, and Identify the complete factual and legal bases for that contention including, without limitation, an identification of each damages theory that you contend should be used in the damages calculation (*e.g.*, reasonable royalty, lost profits, etc.); the specific inputs that you contend should be used under each such theory in the damages calculation; the date(s) on which you contend damages should begin (and the bases supporting such dates); the amount of damages attributable to any portion of the Accused Products; and an identification of all Documents and things on which such calculation is based. Aptiv's answer should also include all factual bases for any contentions Concerning the *Georgia Pacific* factors, *Panduit* factors, or other factors relevant to the determination of damages. Aptiv's answer should Identify what Aptiv contends the proper damages base should be and Identify all support for any contention that the basis of consumer demand for the Accused Products corresponds to one or more claims of the Asserted Patents. If Aptiv contends that the entire market value of the Accused Products is the proper damages base, Aptiv should Identify the basis for that contention.

RESPONSE TO INTERROGATORY NO. 7:

In addition to its General Objections, Aptiv objects to this interrogatory to the extent that it seeks information protected by attorney-client privilege, work product doctrine, or any other applicable privilege. Aptiv further objects to this interrogatory as premature and seeking expert testimony before the deadline for exchanging expert opinions. Aptiv further objects to this interrogatory to the extent it calls for a legal conclusion. Aptiv further objects to this

interrogatory on the ground that it is premature as the parties have not yet produced documents, and it calls for information that is currently only in Microchip's possession.

Aptiv further objects to this interrogatory as premature at least because it seeks information pertaining to Aptiv's legal contentions before applicable rules, court orders, or the trial process requires such disclosure. Aptiv will take reasonable efforts to gather and provide information in response to this interrogatory (subject to remainder of its objections and responses).

Discovery and Aptiv's investigation are ongoing. Aptiv reserves the right to amend or supplement its response as its investigation continues, as more information becomes available, or in response to Microchip's positions, including during expert discovery or at trial.

Subject to and without waiving the foregoing objections and qualifications, and based on Aptiv's current investigation which is limited given the early nature of this matter, Aptiv responds as follows: Aptiv is entitled to damages adequate to compensate Aptiv for Microchip's infringement of the Aptiv Asserted Patents related to its Sandia products (including USB4912, USB4914, and USB4916), including lost profits (including profits from lost sales as well as price erosion damages on the sales Aptiv did not lose) and at minimum a reasonable royalty for Microchip's use of the claimed inventions. Fact discovery has just begun and expert discovery has not yet begun.

INTERROGATORY NO. 8:

Identify all licenses and agreements relating to the Asserted Patents or patents that Aptiv contends are comparable to any of the Asserted Patents, including without limitation, portfolio licenses, covenants not to sue, indemnity agreements, and other agreements relating to intellectual property rights; describe the terms of each such license or agreement including,

without limitation, the parties thereto, the duration thereof, the intellectual property rights covered thereunder, and the consideration provided in return for such intellectual property rights; and Identify any Documents (by Bates number) constituting or relating to each such license or agreement.

RESPONSE TO INTERROGATORY NO. 8:

Aptiv objects to this interrogatory on the ground that it calls for expert testimony. Aptiv further objects to this interrogatory on the ground that it is premature as the parties have not yet produced documents. Aptiv further objects to this interrogatory as premature at least because it seeks information pertaining to Aptiv's legal contentions before applicable rules, court orders, or the trial process requires such disclosure. Aptiv will take reasonable efforts to gather and provide information in response to this interrogatory (subject to remainder of its objections and responses).

Discovery and Aptiv's investigation are ongoing. Aptiv reserves the right to amend or supplement its response as its investigation continues, as more information becomes available, or in response to Microchip's positions, including during expert discovery or at trial.

Subject to and without waiving the foregoing objections and qualifications, Aptiv will respond to this interrogatory at an appropriate time once sufficient discovery has occurred.

INTERROGATORY NO. 9:

Identify and describe in detail the complete factual and legal bases for Aptiv's contention that Microchip's infringement of the Asserted Patents has been "willful and deliberate."

RESPONSE TO INTERROGATORY NO. 9:

In addition to its General Objections, Aptiv objects to this interrogatory to the extent it calls for a legal conclusion. Aptiv further objects to this interrogatory on the ground that it is

premature as the parties have not yet produced documents, nor has it had the opportunity to depose the Microchip individuals whose knowledge of the Aptiv Asserted Patents may be relevant to Microchip's willful infringement of the Aptiv Asserted Patents. Aptiv further objects to this interrogatory as premature at least because it seeks information pertaining to Aptiv's legal contentions before applicable rules, court orders, or the trial process requires such disclosure. Aptiv will take reasonable efforts to gather and provide information in response to this interrogatory (subject to remainder of its objections and responses).

Discovery and Aptiv's investigation are ongoing. Aptiv reserves the right to amend or supplement its response as its investigation continues, as more information becomes available, or in response to Microchip's positions, including during expert discovery or at trial.

Subject to and without waiving the foregoing objections and qualifications, and based on Aptiv's current investigation, Aptiv responds as follows:

Microchip was aware of Aptiv's efforts to seek patent protection for the claimed inventions by no later than March 26, 2015, when Application No. 14/487,947 published as Pub. No. 2015/0089092, which was the first patent application of the Aptiv Asserted Patents to publish and which describes inventions embodied by the Dual Role Hub and the hub chip within it. Microchip developed the Accused Products to have the same functionality as the Dual Role Hub while knowing that Aptiv was seeking patent protection for such inventions.

Microchip monitored the prosecution of the Aptiv Asserted Patents. Microchip thus knew that the Accused Products (to the extent they had been used, offered for sale, or sold) infringed the Aptiv Asserted Patents as of October 4, 2016, the date that U.S. Patent No. 9,460,037 issued, which was the earliest to issue of the Aptiv Asserted Patents. Microchip learned of Aptiv's allegations of infringement no later than December 2021 when Aptiv provided

Microchip claim charts showing that the Accused Products infringed claims of the Asserted Patents. Again at trial in *Microchip Tech. Inc. v. Aptiv Services US, LLC*, 1:17-cv-1194-JDW, D.I. 370, Microchip learned information relating to Aptiv's allegations of infringement when Aptiv presented the Dual Role Hub and the hub chip within it as embodying products of the Aptiv Asserted Patents.

Microchip has failed to stop selling the Accused Products or redesign the Accused Products to remove the infringing functionalities. Instead, Microchip has continued to deliberately and willfully infringe the Aptiv Asserted Patents by marketing and selling the Accused Products, causing Aptiv to suffer damages and irreparable harm.

INTERROGATORY NO. 10:

With respect to Aptiv's allegations that Microchip indirectly infringed the Asserted Patents, describe in detail all factual and legal bases for any contention that Microchip intended to cause infringement through allegedly induced acts and/or knew that the combination for which any component(s) were especially made or adapted allegedly infringed the claim (including the dates of such alleged knowledge), that alleged infringing components are not staple articles of commerce, and/or are not suitable for substantial non-infringing uses, and/or that such allegedly infringing components are a material part of the purported invention of the Asserted Patents including, without limitation, by separately and specifically Identifying each such alleged infringing component.

RESPONSE TO INTERROGATORY NO. 10:

In addition to its General Objections, Aptiv objects to this interrogatory as premature to the extent that it seeks information pertaining to Aptiv's legal contentions before applicable rules, court orders, or the trial process requires such disclosure. Aptiv will take reasonable

efforts to gather and provide information in response to this interrogatory (subject to remainder of its objections and responses). Aptiv further objects to this interrogatory to the extent it calls for a legal conclusion.

Aptiv further objects to this interrogatory on the ground that it calls for information not in Aptiv's possession, custody, or control (for example, with respect to Microchip's indirect infringement) and that should thus be sought from a third party.

Discovery and Aptiv's investigation continue. Aptiv reserves the right to amend or supplement its response as its investigation continues, as more information becomes available, or in response to Microchip's positions, including during expert discovery or at trial.

Subject to and without waiving the foregoing objections and qualifications, and based on Aptiv's current investigation, Aptiv responds as follows:

Microchip has been aware of the Aptiv Asserted Patents and the fact that the Accused Products, USB media modules containing the Accused Products, and automotive systems incorporating such USB media modules, as well as the use of those Accused Products, media modules, and automotive systems, infringes the Aptiv Asserted Patents since those patents issued. Aptiv incorporates its response (and any supplemental responses it provides) to Interrogatory No. 9 herein, as that response relates to Microchip's knowledge of the Aptiv Asserted Patents and its knowledge that the Accused Products (and the incorporation of the Accused Products in USB media modules or automotive systems, or use thereof) infringes the Aptiv Asserted Patents.

Microchip induces module makers to incorporate Microchip's Accused Products into their hub modules in an infringing manner. For example, Microchip advertises USB4914 (one of the Accused Products) as a "USB2.0 Hi-Speed Hub with unique Smart Hub features targeted to

automotive consumer ports and head unit applications," which includes: (1) "***1 Upstream port*** for USB Host connection," (2) "2 downstream ports with ***dual role (host/device)*** physical interfaces," (3) "device features to enable ***smart phone automotive sessions with head unit display***" and (4) a "Multi-Host Endpoint Reflector" that allows USB data to be "***'mirrored' between two USB hosts*** (Multi-Host) in order to execute USB transactions." *See* https://www.microchip.com/en-us/product/USB4914 (emphases added). Microchip thus advertises the USB4914 for smart phone automotive sessions, *e.g.*, CarPlay, in a manner that accommodates the head unit as a first host and the iPhone as a second host while running CarPlay, while providing persistent USB, and using a single lane configuration—the functionalities provided by the claimed inventions of the Aptiv Asserted Patents. Microchip further encourages car manufacturers to purchase the hub modules that incorporate Microchip's Accused Products to satisfy their demands for these functionalities. That is, Microchip advertises the USB4914 product in a manner that aids, instructs, or otherwise intends to cause the downstream buyers of the USB4914, such as module makers and car manufacturers, to perform acts that would constitute direct infringement of the Aptiv Asserted Patents. For the same reasons, Microchip's accused Sandia products are not staple articles of commerce and there are no substantial non-infringing uses of such products. The core purpose of the Sandia products is to enable the functionalities provided by the claimed inventions of the Aptiv Asserted Patents.

INTERROGATORY NO. 11:

Identify all the "related entities" as defined in paragraph 3 of the complaint (D.I. 1) and describe in detail the relationship among Aptiv Technologies Limited, Aptiv Services US, LLC, Unwired Technology LLC, and those "related entities," including organizational, licensing, and transactional relationships between or among any number of above-described entities.

RESPONSE TO INTERROGATORY NO. 11:

In addition to its General Objections, Aptiv objects to this interrogatory on the ground that it unreasonably burdensome and calls for information about entities that have no connection to the claims or defenses in this Action. As a result, and to the extent Aptiv agrees to provide information or produce documents in response to this request, it will be limited to Aptiv entities directly involved in the design, manufacture, or sale of Aptiv products in the United States for products of which Aptiv claims it would have made additional sales but for Microchip's infringement and which form the basis of Aptiv's claim for lost profits. Aptiv further objects to this interrogatory on the ground and to the extent it is not limited as to timeframe, and will interpret the request according to its plain meaning and provide information and/or documents regarding those entities as of today. Aptiv further objects to this interrogatory on the ground that it seeks information more efficiently obtained through either document discovery. Aptiv further objects to this interrogatory on the ground that it calls for information protected from disclosure by the attorney-client privilege, the work product doctrine, or any other applicable privilege or protection. Aptiv further objects to this interrogatory on the ground that the phrase "fully describe in detail the relationship" among various entities is vague and ambiguous, and to the extent it is calling for a narrative providing information beyond what would be provided in an organizational chart is unreasonably burdensome and not proportional to the needs of the case, particularly in light of Aptiv's willingness to produce documents

Discovery and Aptiv's investigation continue. Aptiv reserves the right to amend or supplement its response as its investigation continues, as more information becomes available, or in response to Microchip's positions, including during expert discovery or at trial.

Subject to and without waiving the foregoing objections and qualifications, and based on Aptiv's current investigation, Aptiv responds as follows:

Pursuant to Rule 33(d), Aptiv will produce documents sufficient to show the organizational structure (*i.e.*, entity relationship) among the Aptiv entities directly involved in the manufacture and sale in the United States of products of which Aptiv claims it would have made additional sales but for Microchip's infringement and which form the basis of Aptiv's claim for lost profits, as well as documents sufficient to show the profits Aptiv receives from sales in the United States of those products.

POTTER ANDERSON & CORROON LLP

By: */s/ Philip A. Rovner*
Philip A. Rovner (#3215)
Jonathan A. Choa (#5319)
P.O. Box 951
Wilmington, DE 19899
(302) 984-6000
provner@potteranderson.com
jchoa@potteranderson.com

Attorneys for Aptiv Technologies Limited and Aptiv Services US, LLC

OF COUNSEL

Daralyn J. Durie
Eric Wiener
Timothy Chen Saulsbury
Joyce C. Li
Tannyr Pasvantis
Andrew L. Perito
MORRISON & FOERSTER LLP
425 Market Street,
San Francisco, California 94105-2482
(415) 268-7000

Henry Huttinger
MORRISON & FOERSTER LLP
707 Wilshire Boulevard, Suite 6000
Los Angeles, California 90017-3543
(213) 892-5200

Andrew Jones
MORRISON & FOERSTER LLP
2100 L Street, NW, Suite 900
Washington, D.C. 20037
(202) 887-1500

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Microchip Ex. 1045, p. 23
Microchip v. Aptiv
IPR2024-00558

CERTIFICATE OF SERVICE

I, Philip A. Rover, hereby certify that on June 12, 2023, I served *Plaintiff Aptiv Technologies Limited's Responses and Objections to Microchip Technology Inc.'s First Set of Interrogatories (Nos. 1-11)* by forwarding the document by electronic transmission to the email addresses listed below:

BY EMAIL

Jack B. Blumenfeld
Brian P. Egan
MORRIS, NICHOLS, ARSHT & TUNNELL LLP
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
jblumenfeld@mnat.com
began@mnat.com

John Neukom
Barabara N. Barath
Yuqing Cui
DEBEVOISE & PLIMPTON LLP
650 California Street
San Francisco, CA 94108
(415) 738-5700
jneukom@debevoise.com
bnbarath@debevoise.com
ycui@debevoise.com

Andrew Gish
Edward Tulin
GISH PLLC
41 Madison Avenue, Floor 31
New York, NY 10010
(212) 518-2000
andrew@gishpllc.com
edward@gishpllc.com

Attorneys for Defendant

By: */s/ Philip A. Rovner*
Philip A. Rovner (#3215)