
From: Diehl, Robert A <robert.a.diehl@intel.com>
Sent: Monday, January 23, 2023 8:21 PM
To: Derek Dahlgren
Subject: RE: USTA Technology License Offer

Dear Mr. Dahlgren,

We have completed our investigation of the materials that Mr. Gordon has provided to date on behalf of USTA. In his letter to Intel, he alleged that Intel's AC-3160 Wireless Card infringes U.S. Pat. Nos. RE47720, 6,816,115, 7,085,541, 7,321,580, and 8,026,849 (the "Asserted Patents"). We appreciate the opportunity to address USTA's concerns at this time because Intel values the intellectual property rights of others and would not knowingly infringe any valid patent rights. However, our investigation has found that Intel does not infringe as alleged and therefore does not need a license. Also, the claims we reviewed are invalid in light of the prior art we have identified. That said, Intel remains receptive to any further information you may have in support of your position.

As an initial matter, we note that Mr. Gordon's letter identified the five Asserted Patents but only included one claim chart. The chart alleges that claim 53 of the 'RE720 patent covers the IEEE 802.11ac standard. Accordingly, we investigated Intel's 802.11ac compliant products ("802.11ac Products"), including the AC-3160, with respect to claim 53 as asserted in the claim chart. With respect to the other Asserted Patents, however, no claim chart was provided and no specific claims were alleged to be infringed. Therefore, we investigated Intel's 802.11ac Products against claim 1 of each patent. If USTA believes any other Intel product infringes, and/or that any other claim might be infringed, please provide a claim chart at your earliest convenience so we may investigate the allegation.

Also, please note that the claim chart Mr. Gordon provided includes a footer that labels the chart as "ATTORNEY-CLIENT PRIVILEGED/ CONFIDENTIAL/ WORK PRODUCT." We understand that this label was used mistakenly and that, by providing the chart to Intel, Mr. Gordon did not intend any such protections or privileges to apply (and/or intended to waive them). Please let me know if this is incorrect.

We turn now to the details of the infringement allegations. **First**, USTA appears to allege that the functionalities for transmit beamforming and DL MU-MIMO that are described in the cited standards satisfy the claim 53 of 'RE720. *See* USTA Chart, pp. 34-40. These functions, however, are optional features and Intel's 802.11ac Products do not include them. In other words, none of Intel's 802.11ac compliant products transmit a "filtered first transmission signal that is transmitted to the second node using an 802.11-based orthogonal frequency-division multiplexing (OFDM) protocol via at least one antenna of a plurality of antennas, using a first power that is based on the decompressed first feedback," nor do they transmit "using the 802.11-based OFDM protocol, a filtered second transmission signal, simultaneously with the filtered first transmission signal, to the third node using a second power that is based on the decompressed second feedback," as required by claim 53. In fact, Intel's AC-3160 and other 802.11ac products do not include the "plurality of antennas" required in claim 53. **Second**, claim 1 of the '115 patent requires "selecting an antenna from a plurality of antennas based on the location data" and transmitting a message that includes a "center angle" of a selected antenna. Intel's 802.11ac Products do not include these features. **Third**, claim 1 of the '541 patent requires "determining an angle between the identified directional antenna of the second node and the first node based on the location of the second node." Intel's 802.11ac Products do not determine an angle or possess the location information required. Intel's 802.11ac Products also do not determine "transmit power" as further required by the claim. **Fourth**, claim 1 of the '580 patent requires "selecting a transmitting antenna from said plurality of antennas," switching the "transmitting antenna," and determining whether a "transmission medium is free in a

beam direction,” none of which Intel’s 802.11ac Products do. **Fifth**, claim 1 of the ’849 patent requires selecting an antenna “based on...three-dimensional position data.” Intel’s 802.11 Products do not select antennas based on any such data. Thus, after examining Intel’s 802.11ac Products, we believe Intel’s products do not infringe claim 53 of the ’RE720 patent nor claim 1 of the remaining Asserted Patents.

We turn now to invalidity. U.S. Patent No. 7,245,879 and its priority Provisional Application No. 60/493,937 disclose the details of claim 53 of the ’RE720 patent. Two industry papers (“Medium Access Control Protocols Using Directional Antennas in Ad Hoc Networks,” by Young-Bae Ko, et. al., and “On the Performance of Ad Hoc Networks with Beamforming Antennas,” by Ram Ramanatham) also, alone and in combination, render claim 53 invalid. Lastly, the following references render claim 1 in each of the respective Asserted Patents invalid: U.S. Patent 7,321,085 (claim 1 of the ’580 and ’115 patents); Application Publication No. 2003/0152086 (claim 1 of the ’580 patent); U.S. Patent No. 7,266,085 (claim 1 of the ’541 patent); and, the Ramanatham article above, as well as U.S. Patent No. 5,596,333 in view of U.S. Patent No. 6,246,376 (claim 1 of the ’849 patent).

For at least the reasons we detail above, we do not believe Intel needs a license to the Asserted Patents. We reserve all rights in this matter. Please direct any further communications on this matter to me via email.

Best Regards,

Bob

Robert A. Diehl
INTEL LEGAL
robert.a.diehl@intel.com

From: Diehl, Robert A
Sent: Friday, November 18, 2022 9:47 AM
To: ddahlgren@devlinlawfirm.com
Subject: USTA Technology License Offer

Dear Mr. Dalgren,

I am legal counsel for Intel Corporation. I write to you regarding a letter Intel received on November 17, 2022 from Andrew Gordon of USTA Technology, LLC. In his letter, Mr. Gordon suggested that certain Intel products may be infringing certain patents owned by USTA Technology. He indicated that you are USTA Technology’s licensing agent, and he requested that we contact you to discuss licensing terms.

I will evaluate Mr. Gordon’s assertions and contact you again in due course. In the meantime, please direct any future communications regarding this matter to me. If you have any additional information you would like me to take into consideration, please provide such information to me at your earliest convenience.

Best Regards,
Bob

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