IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

VLSI TECHNOLOGY LLC,

                Plaintiff,

     v.

INTEL CORPORATION,

                Defendant.

C.A. No. 18-966-CFC

FILED UNDER SEAL

**REPLY BRIEF IN SUPPORT OF
PLAINTIFF VLSI TECHNOLOGY LLC'S SECOND MOTION
TO REINTRODUCE CERTAIN ASSERTED PATENT CLAIMS, OR TO
SEVER SUCH CLAIMS INTO A SEPARATE ACTION TO BE STAYED**

Dated: March 20, 2020

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In re Katz Interactive Call Processing Patent Litig., Inc.,
   639 F.3d 1303 (Fed. Cir. 2011) ....*passim*

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* Unless noted, all emphasis is added.

I.   There Is No Dispute The Reintroduced Claims Present Unique Issues of Validity and Infringement, Implicating Due Process

    A.   Intel Admits The *Katz* Standard Is Satisfied

Intel admits that "the limitations of each unelected claim are … different from the limitations of each elected claim" and that "the unelected claims omit certain limitations that form the basis for Intel's noninfringement defenses for certain elected claims." D.I. 591 ("Intel Op.") at 2, 12. This aligns perfectly with the *Katz* standard— *i.e.*, a "defense raised by [the] defendant [] to a currently asserted claim does not apply in substantially the same manner to a newly asserted claim." *In re Katz Interactive Call Processing Patent Litig., Inc.*, 639 F.3d 1303, 1313 (Fed. Cir. 2011).

Because Intel admits that the claims VLSI seeks to reintroduce present unique issues of infringement and validity, there is no meaningful dispute that they implicate VLSI's due process rights. The Court could end its analysis here.

    B.   Intel's "General Arguments" Are Mere Attempts At Misdirection

Having admitted the *Katz* standard is satisfied, Intel resorts to misdirection.

First, Intel argues it is not enough that "the unelected claims contain certain limitations not present in certain elected claims." Intel Op. at 12. This is a strawman. VLSI agrees, as does the Federal Circuit, that "[w]hile different claims are presumed to be of different scope, that does not mean that they necessarily present different questions of validity or infringement." *Katz*, 639 F.3d at 1313. There must be a difference that actually matters, whereby a "***defense*** raised by [the] defendant [] to a

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