

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

KONINKLIJKE PHILIPS N.V. and	)	
PHILIPS NORTH AMERICA LLC,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. No. 20-1243 (CFC)
	)	
INTEL CORP.,	)	
	)	
Defendant.	)	

**INTEL’S OPENING BRIEF IN SUPPORT OF ITS MOTION TO DISMISS  
PHILIPS’ CLAIMS OF INDIRECT INFRINGEMENT**

OF COUNSEL:

Chad S. Campbell  
PERKINS COIE LLP  
2901 N. Central Avenue, Suite 2000  
Phoenix, AZ 85012-2788  
(602) 351-8000

Ryan J. McBrayer  
Christina J. McCullough  
James S. Miller  
PERKINS COIE LLP  
1201 Third Avenue, Suite 4900  
Seattle, WA 98101-3099  
(206) 359-8000

Sarah E. Piepmeier  
PERKINS COIE LLP  
505 Howard Street, Suite 1000  
San Francisco, CA 94105-3204  
(415) 344-7000

MORRIS, NICHOLS, ARSHT & TUNNELL LLP  
Jack B. Blumenfeld (#1014)  
Jennifer Ying (#5550)  
1201 North Market Street  
P.O. Box 1347  
Wilmington, DE 19899  
(302) 658-9200  
jblumenfeld@morrисnichols.com  
jying@morrисnichols.com

*Attorneys for Defendant Intel Corp.*

Kourtney Mueller Merrill  
PERKINS COIE LLP  
1900 Sixteenth Street, Suite 1400  
Denver, CO 80202-5255  
(302) 291-2300

July 22, 2022

## TABLE OF CONTENTS

	<b>Page</b>
I. NATURE AND STATE OF THE PROCEEDINGS .....	1
II. SUMMARY OF ARGUMENT.....	2
III. STATEMENT OF FACTS .....	3
A. The filing of this action .....	3
B. Philips’ indirect infringement allegations .....	4
C. The 1224 ITC Investigation .....	5
D. The ’809 and ’186 patents.....	7
IV. ARGUMENT.....	10
A. Philips’ Complaint fails to state a plausible claim for either induced or contributory infringement .....	11
B. The ITC’s noninfringement determination renders implausible the allegation that Intel believes it is inducing or contributing to its customer’s alleged infringement .....	13
C. Philips’ indirect infringement claims should be dismissed without leave to amend .....	16
V. CONCLUSION.....	18

## TABLE OF AUTHORITIES

<b>Cases</b>	<b>Page(s)</b>
<i>AgroFresh Inc. v. Essentiv LLC</i> , C.A. No. 16-662, 2019 WL 350620 (D. Del. Jan. 29, 2019) .....	11, 13
<i>Aro Mfg. Co. v. Convertible Top Replacement Co.</i> , 377 U.S. 476 (1964).....	11
<i>Ashcroft v. Iqbal</i> , 556 U.S. 662 (2009).....	10, 11, 15
<i>Bell Atl. Corp. v. Twombly</i> , 550 U.S. 544 (2007).....	10
<i>Commil USA, LLC v. Cisco Sys., Inc.</i> , 135 S. Ct. 1920 (2015).....	11
<i>Cornell Univ. v. Illumina, Inc.</i> , No. CV 10-433-LPS-MPT, 2017 WL 89165 (D. Del. Jan. 10, 2017) .....	17
<i>Dodots Licensing Sols. LLC v. Lenovo Holding Co., Inc.</i> , C.A. No. 18-098, 2018 WL 6629709 (D. Del. Dec. 19, 2018) .....	10, 13
<i>Dynamic Data Techs., LLC v. Brightcove Inc.</i> , 2020 WL 4192613 (D. Del. July 21, 2020).....	12
<i>E.I. Du Pont De Nemours &amp; Co. v. Heraeus Precious Metals N. Am. Conshohocken LLC</i> , No. CV 11-773-SLR, 2013 WL 4047648 (D. Del. Aug. 8, 2013) .....	17
<i>Enzo Life Scis., Inc. v. Digene Corp.</i> , 270 F. Supp. 2d 484 (D. Del. 2003).....	16
<i>Express Mobile, Inc. v. Squarespace, Incl</i> , C.A. No. 20-1163-RGA, 2021 WL 3772040 (D. Del. Aug. 25, 2021) .....	12
<i>Global-Tech Appliances, Inc. v. SEB S.A.</i> , 563 U.S. 754 (2011).....	11

**TABLE OF AUTHORITIES**  
**(continued)**

	<b>Page(s)</b>
<i>Hoai Dang v. Samsung Elecs. Co.</i> , No. 14-CV-00530-LHK, 2018 WL 6308738 (N.D. Cal. Dec. 3, 2018), <i>aff'd sub nom. Dang v. Samsung Elecs. Co., Ltd</i> , 803 F. App'x 137 (9th Cir. 2020).....	14
<i>IPtronics Inc. v. Avago Techs. U.S., Inc.</i> , No. 14-CV-05647-BLF, 2015 WL 5029282 (N.D. Cal. Aug. 25, 2015) .....	14
<i>Koloni Reklam, Sanayi, Ticaret LTD/STI v. Viacom, Inc.</i> , No. CV 16-285-SLR, 2017 WL 726660 (D. Del. Feb. 23, 2017).....	14
<i>TriPlay, Inc. v. WhatsApp Inc.</i> , C.A. No. 13-1703, 2018 WL 1479027 (D. Del. Mar. 27, 2018).....	11
<i>Wilkerson v. New Media Tech. Charter Sch. Inc.</i> , 522 F.3d 315 (3d Cir. 2008) .....	11
<i>ZapFraud, Inc. v. Barracuda Networks, Inc.</i> , 528 F. Supp. 3d 247 (D. Del. 2021).....	11, 12, 17
<b>Statutes</b>	
28 U.S.C. § 1659.....	1
<b>Rules</b>	
Fed. R. Civ. P. 12(b)(6).....	2, 16, 17

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.