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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92050212
Party	Plaintiff Cypress Semiconductor Corporation
Correspondence Address	Mark H. Tidman Baker & Hostetler LLP 1050 Connecticut Avenue, N.W. Washington, DC 20036 UNITED STATES trademarks@bakerlaw.com
Submission	Other Motions/Papers
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Date	08/12/2009
Attachments	firsttouch.pdf (3 pages)(115436 bytes)

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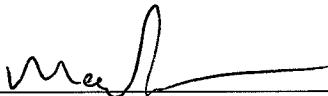
Cypress Semiconductor Corporation)	
)	
Petitioner)	Cancellation No. 92050212
)	
v.)	Serial No.: 77/249,420
)	
Barry Epstein,)	Mark: FIRSTTOUCH
)	
Registrant)	
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Attorney Docket Number: 87233.290		

REQUEST FOR REMAND

Applicant requests that the application be remanded to the Examining Attorney for consideration of the attached Co-Existence Agreement.

Respectfully submitted,
BAKER & HOSTETLER LLP

Date: 8/12/09



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TRADEMARK CO-EXISTENCE AGREEMENT

This Agreement is hereby entered into by and between Barry M. Epstein ("Epstein"), an individual residing at 3 Milford Place, Dallas, Texas 75230, and Cypress Semiconductor Corporation ("Cypress"), a company organized under the laws of the State of Delaware, with a business address of 198 Champion Court, San Jose, CA 95134.

WHEREAS, Epstein is the owner Registration No. 3,142,569 for the mark FIRST TOUCH (the "Epstein Mark") in connection with "mouse pads, telephones, telephone headsets, computer keyboards, computer mouses and calculators made of contact material and related circuitry connected to the material to safely discharge electrostatic charge from a person or object " in International Class 9 (the "Epstein Goods ");

WHEREAS Cypress is the owner of Application No. 77/249,420 to federally register the mark FIRSTTOUCH (the "Cypress Mark"), in connection with "starter evaluation kit, comprised of USB interface dongle and a multifunction expansion card; semiconductors; integrated circuits" in International Class 9 (the "Cypress's goods"); and

WHEREAS, Cypress filed Cancellation No. 9250212 against Registration No. 3,142,569; and

WHEREAS, Epstein does not sell or offer for sale the Cypress Goods or any related goods; and

WHEREAS, Epstein and Cypress wish to memorialize their agreement to co-exist in the marketplace and on the Federal Register regarding the use of their respective marks;

Accordingly, IT IS HEREBY AGREED by and between the parties as follows:

1. Epstein recognizes and acknowledges Cypress's ownership of the Cypress Mark in connection with the Cypress Goods.
2. Based on their knowledge of the marketplace and channels of trade, the parties agree that no likelihood of confusion will arise due to the parties' respective uses of the Epstein Mark and Cypress Mark as set forth in this Agreement.
3. Under the circumstances, Epstein hereby consents to registration of the FIRSTTOUCH mark by Cypress as set forth in Application Serial No. 77/249,420.
4. Upon acceptance of Application No. 77/249,420 for registration, Cypress shall withdraw its Cancellation No. 92050212 with prejudice.
5. The Parties agree to cooperate and to take such reasonable steps as may be mutually agreeable for the purpose of avoiding likelihood of confusion. Should the parties become aware of any actual confusion among the purchasing public as a result of the use of their

respective marks, they shall cooperate and take reasonable measures to prevent further confusion.

6. This Agreement represents the full and complete agreement reached by the parties with respect to the subject matter herein. This Agreement shall be construed as if the parties have jointly prepared it and any uncertainty or ambiguity shall not be interpreted against any one party.

7. Each Party shall, without further consideration, execute any and all additional documents and take such further action as maybe requested to effect the terms of this Agreement.

IN WITNESS WHEREOF, the parties have executed and have acknowledged the Agreement on the dates given below.

CYPRESS SEMICONDUCTOR
CORPORATION


By: 

Date: April 27, 2009

Its: Victoria Tidwell
VP, legal Affairs

BARRY M. EPSTEIN

Date: March 25, 2009

By: 

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