

## Intel Beats Patent Suit Over CPU Chips In Delaware

By **Andrew Karpan**

*Law360 (February 24, 2023, 6:52 PM EST)* -- Intel Corp. has defeated a suit in Delaware federal court that alleged various lines of the chipmaker's central processing units infringe technology developed by a University of Maryland professor who claimed to have invented an important idea in the world of "parallel computing" in 2006.

In a decision penned Wednesday by U.S. District Judge Matthew Kennelly, who usually sits in a federal court in the Northern District of Illinois, the U.S. District Court for the District of Delaware granted Intel's motion for summary judgment of noninfringement on all claims in a patent suit filed against the company back in 2018. Initially sent to the court of Judge Richard Andrews, who sits in Delaware, the case was shifted to Judge Kennelly last year.

The patents covered what one of them describes as "a serial processor adapted to execute software instructions in a software program primarily in parallel," and was the discovery of professor Uzi Vishkin, described as having "played a leading role in forming and shaping what thinking in parallel has come to mean in the fundamental theory of computer science," according to the lawsuit filed by XMTT Inc., a Maryland company that Vishkin founded.

"This case turns on the meaning of the term 'serial processor' in XMTT's two patents," Judge Kennelly observed in the Wednesday decision, which followed a video hearing in the case that took place Feb. 8.

The judge decided to end the suit, which had been otherwise scheduled to hit a jury on April 24 in Wilmington. Intel had convinced the judge to adopt a way of understanding the phrase "serial processor" that excluded the kind of chips that Intel sold.

"XMTT contends that there is a genuine factual dispute regarding whether Intel's CPUs are serial processors," the judge noted in the decision. In fact, in the filings, XMTT called Intel's arguments "fundamental misstatements of law that ... allow the court to disregard the heavily disputed facts here."

Things were not that disputed, however, Judge Kennelly decided.

In a lengthy footnote, the judge wrote that XMTT's lawyers had failed to make it very clear to him what exactly the phrase used in the patents actually meant.

"When asked if a 'serial processor' is 'a processor that executes programs having a sequential, program order and retires instructions according to that sequential program order' — the definition XMTT

appeared to provide in its response to Intel's motion for summary judgment — counsel for XMTT initially disputed that definition. Upon further questioning, counsel told the court that the definition is 'fairly close' to that," he wrote.

XMTT's lawyers also failed to tell the judge that Intel's chips did not execute "multiple threads" of data, as opposed to executing the kind of "serial" threads of data that the patents covered, the judge said.

"Consequently, it is not genuinely disputed that neither the CPUs in the accused products nor their cores are processors 'that execute ... instructions one at a time in a sequential manner,'" he wrote.

A representative for Intel's lawyers declined to comment on the decision, as did an Intel spokesperson. Representatives for XMTT did not return a request for comment Friday.

The patents at issue are U.S. Patent Nos. 7,707,388 and 8,145,879.

Intel is represented by Paul A. Bondor, Lindsey E. Miller, Jeffrey S. Seddon II, Brian D. Matty, Jamie L. Kringstein, Michael Wueste, Ryan G. Thorne and Raymond N. Habbaz of Desmarais LLP, and Jack B. Blumenfeld and Jeremy A. Tigan of Morris Nichols Arsht & Tunnell LLP.

XMTT is represented by Morgan Chu, Benjamin Hattenbach, Anthony Rowles, Jordan Nafekh and Philip Warrick of Irell & Manella LLP, and Brian E. Farnan and Michael J. Farnan of Farnan LLP.

The case is XMTT Inc. v. Intel Corp., case number 1:18-cv-01810, in the U.S. District Court for the District of Delaware.

--Editing by Melissa Treolo.