

1 Allen Ruby, Esq. SB #47109  
2 Glen W. Schofield, Esq. SB #47308  
3 RUBY & SCHOFIELD  
4 125 South Market Street, Suite 1001  
5 San Jose, California 95113  
6 Telephone: (408) 998-8500

7 Attorneys for Plaintiff  
8 DUALCOR TECHNOLOGIES, INC.

9  
10 **UNITED STATES DISTRICT COURT**  
11 **NORTHERN DISTRICT OF CALIFORNIA**  
12 **SAN JOSE BRANCH**

13 DUALCOR TECHNOLOGIES, INC.

14 Plaintiff,

15 v.

16 INTEL CORPORATION,

17 Defendant.

CASE NO.

**COMPLAINT FOR TRADEMARK AND  
TRADE NAME INFRINGEMENT**

**JURY TRIAL DEMANDED**

18 **COMPLAINT**

19 Plaintiff DualCor Technologies, Inc. (“DualCor”) alleges against defendant Intel  
20 Corporation (“Intel”):

21 **INTRODUCTION**

22 1. DualCor seeks relief from this Court to stop Intel’s infringement of DualCor’s  
23 name and registered trademark. Intel markets products and technology as “Dual Core”  
24 which misappropriate and infringe upon the name and registered trademark owned by  
25 DualCor.

26 2. DualCor seeks money damages to compensate for Intel’s past misuse of  
27 DualCor’s name and mark. DualCor also asks the Court to use its injunctive powers to  
28 protect the name and mark of DualCor.

//////

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**THE PARTIES**

3. DualCor is a California corporation with its principal place of business in Capitola, Santa Cruz County, California. DualCor was incorporated in December, 2000, as GCVI, Inc. Thereafter, in December, 2003, GCVI, Inc. changed its name to DualCor Technologies, Inc.

4. Intel is a Delaware corporation with its principal place of business at 2200 Mission College Boulevard, Santa Clara County, California, within this judicial district.

**JURISDICTION AND VENUE**

5. This is an action for infringement of a trademark and trade name under §32 of the Lanham Act, 15 U.S.C. §1114. This Court has subject matter jurisdiction under 28 U.S.C. §§1331 and 1338(a) and (b).

6. Venue within this judicial district is proper under 28 U.S.C. §§1391(b) and (c).

**Claim For Trademark and Trade Name Infringement**

7. DualCor realleges and incorporates by reference paragraphs 1-6 inclusive.

8. At all material times, DualCor has been and is engaged in the development of computing and telecommunications technology and products. Over the years, DualCor employees developed proprietary technology which enhances the processing power, efficiency and portability of computing devices by deploying multiple CPUs (central processing units) working together.

9. DualCor first adopted and used the name and mark “DUALCOR” to identify its company and its products in December of 2003. First use in commerce was December, 2005.

10. On May 14, 2004, DualCor filed with the United States Patent and Trademark Office an application for the “DUALCOR” trademark.

11. On July 25, 2006, the “DUALCOR” trademark was registered in the United States Patent and Trademark Office under United States Trademark Registration No. 3,121,648. DualCor owns the registration, which is and continues to be in full force and

1 effect. A copy of DualCor's Certificate of Registration is attached as Exhibit 1 and  
2 incorporated by reference.

3 12. DualCor has used the trademark "DUALCOR" continuously since at least  
4 December, 2003, to identify its technology and products. In this connection, DualCor uses  
5 its trademark on publications, business plans, and other documents that it circulates and uses  
6 in the operation of its business.

7 13. DualCor has, for example, used its name and mark in communications with  
8 prospective investors, strategic partners, and licensees of DualCor technology. DualCor has  
9 used and circulated its mark throughout California, other States, and overseas.

10 14. To its prospective customers, strategic partners and licensees, DualCor was  
11 known by its name and mark until Intel misappropriated them. Although DualCor has never  
12 been a large company, it has attempted to build its place in the electronics industry as a  
13 reliable and creative developer of sophisticated technology. Critical to the company's  
14 success was the establishment of a DualCor brand which the industry would associate with  
15 reliability and quality.

16 15. Intel had actual knowledge of DualCor's name beginning as early as  
17 December, 2003.

18 16. On or about July 27, 2006, Intel introduced a new product line which it called  
19 "Core 2 Duo." Thereafter Intel launched an aggressive marketing campaign which included  
20 the slogan "Dual-Core. Do More."

21 17. Since approximately July, 2006, Intel has used the DUALCOR name and  
22 mark to market Intel products through the national and international media. The slogan  
23 "Dual-Core. Do More." is at least a colorable imitation of plaintiffs' registered trademark.  
24 Intel uses "Dual-Core. Do More." in interstate commerce in connection with the sale,  
25 offering for sale, distribution and advertising of its vast Core 2 product line. As such, Intel's  
26 use of the name "Dual-Core" is likely to cause confusion, mistake or deception among  
27 consumers as to the source, quality and nature of DualCor's goods.

28

1 18. The nature of this confusion, mistake or deception among consumers is  
2 particularly pronounced because Intel's misappropriation of the DualCor trademark has  
3 been so blatant. Two companies are now using the DualCor trademark. One of them, Intel,  
4 is a giant multi-national company with enormous resources to market its products and itself.  
5 The other, DualCor Technologies, Inc., is a very small startup company in Capitola. Within  
6 the technology industry, it is inevitable that DualCor Technologies, Inc. will be seen as the  
7 usurper of Intel's trademark and intellectual property, because it is almost unthinkable –  
8 without knowing the facts of this case – that a company as big and well-established as Intel  
9 would simply help itself to the name and trademark of a tiny company. As a consequence,  
10 DualCor is unable to build its brand as a reliable, quality developer of sophisticated  
11 technology.

12 19. DualCor is informed and believes and thereon alleges that as a result of the  
13 advantage accruing to Intel's business from the wrongful use of DualCor's trademark, Intel  
14 has made substantial sales and profits in an amount exceeding \$1 billion.

15 20. As a result of the disadvantage accruing to DualCor because of confusion in  
16 the marketplace caused by Intel's wrongful use of the DualCor name and mark, DualCor has  
17 been deprived of substantial sales or license revenues from its technology, and has been  
18 deprived of the value of its trademark as a commercial asset, in an approximate amount  
19 greater than \$1 million, according to proof.

20 21. DualCor is informed and believes and thereon alleges that unless restrained by  
21 this Court, Intel will continue to infringe plaintiff's registered trademark, thus engendering a  
22 multiplicity of judicial proceedings, and pecuniary compensation will not afford DualCor  
23 adequate relief for the damage to its trademark in the public perception.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, DualCor prays for judgment against Intel as follows:

26 1. That Intel be ordered to disgorge all profits, and pay to DualCor all damages  
27 caused to DualCor by reason of Intel's infringement of DualCor's name and trademark;  
28

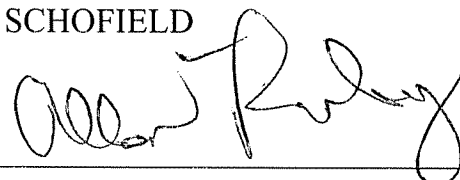
1           2.       That Intel, its subsidiaries, officers, agents, servants, employees, licensees and  
2 all other persons acting or attempting to act in active concert or participation with them or  
3 acting on their behalf, be preliminarily and permanently enjoined from further infringement,  
4 inducement of infringement, or contributory infringement of the "DUALCOR" trademark;

5           3.       That the Court grant such other and further relief as the Court may deem just  
6 and proper under the circumstances.

7 DATED: August 27, 2007

RUBY & SCHOFIELD

8  
9 BY \_\_\_\_\_



10 ALLEN RUBY  
11 Attorneys for Plaintiff

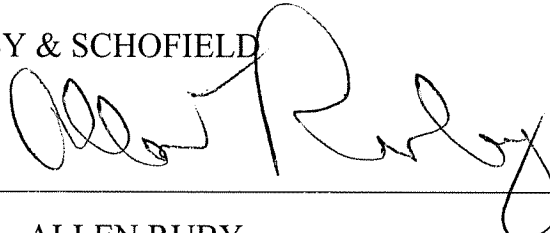
12 **DEMAND FOR JURY TRIAL**

13           Plaintiff hereby demands a jury trial pursuant to Rule 38 of the Federal Rules of Civil  
14 Procedure as to all issues in this lawsuit.

15 DATED: August 27, 2007

RUBY & SCHOFIELD

16  
17 BY \_\_\_\_\_



18 ALLEN RUBY  
19 Attorneys for Plaintiff

20  
21 I:\DUALCORP\Complaint for Infringement Aug 27 07.doc