

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CHRIMAR SYSTEMS, INC. D/B/A CMS)
TECHNOLOGIES, AND CHRIMAR)
HOLDING COMPANY, LLC)
)
Plaintiffs,)

v.)

C.A. No. _____)

CISCO SYSTEMS, INC., CISCO)
CONSUMER PRODUCTS LLC, CISCO-)
LINKSYS LLC, HEWLETT-PACKARD)
CO., 3COM CORPORATION, AVAYA)
INC., AND EXTREME NETWORKS, INC.,)
)

DEMAND FOR JURY TRIAL

Defendants.

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs ChriMar Systems, Inc. d/b/a CMS Technologies and ChriMar Holding Company, LLC (collectively “ChriMar” or “Plaintiffs”) file this Complaint for infringement of U.S. Patent No. 7,457,250, as reexamined (“the ‘250 Patent” or “the Patent-in-Suit”), against Cisco Systems, Inc., Cisco Consumer Products LLC, Cisco-Linksys LLC, Hewlett-Packard Co., 3Com Corporation, Avaya, Inc., and Extreme Networks, Inc. (collectively “Defendants”).

THE PARTIES

1. Plaintiff ChriMar Systems, Inc. d/b/a CMS Technologies (“ChriMar Systems”) is a Michigan corporation with its principal place of business at 36528 Grand River Avenue, Suite A-1 in Farmington Hills, Michigan. ChriMar Systems is the sole owner of all rights in and to the intellectual property rights at issue herein.

2. Plaintiff ChriMar Holding Company, LLC is a Texas limited liability company, having a principal place of business at 303 South Washington Avenue in Marshall, Texas.

3. Upon information and belief, Defendant Cisco Systems, Inc. (“Cisco Systems”) is, and at all relevant times mentioned herein was, a corporation organized and existing under the laws of California, with its principal place of business at 170 West Tasman Drive, San Jose, California. Cisco Systems makes, sells, and/or offers for sale a variety of products, including Power over Ethernet telephones, switches, wireless access points, routers and other devices used in wireless local area networks (“WLANs”), and cameras and components thereof, for consumers in the United States including in the District of Delaware. Cisco Systems has designated as its registered agent for service of process, The Prentice-Hall Corporation System, Inc., 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

4. Upon information and belief, Defendant Cisco Consumer Products LLC (“Cisco Consumer”) is, and at all relevant times mentioned herein was, a corporation organized and existing under the laws of California, with its principal place of business at 120 Theory Drive in Irvine, California. Cisco Consumer makes, sells, and/or offers for sale a variety of products, including Power over Ethernet telephones, switches, wireless access points, routers and other devices used in WLANs, and cameras and components thereof, for consumers in the United States including in the District of Delaware. Upon information and belief, Cisco Consumer is a wholly-owned subsidiary of Cisco Systems.

5. Upon information and belief, Defendant Cisco-Linksys LLC (“Cisco-Linksys”) is, and at all relevant times mentioned herein was, a corporation organized and existing under the laws of California, with its principal place of business at 121 Theory Drive, Irvine, California. Cisco-Linksys makes, sells, and/or offers for sale a variety of products, including Power over Ethernet telephones, switches, wireless access points, routers and other devices used in WLANs, and cameras and components thereof, for consumers in the United

States including in the District of Delaware. Upon information and belief, Cisco-Linksys is a wholly-owned subsidiary of Cisco Systems. Defendants Cisco Systems, Cisco Consumer, and Cisco-Linksys will collectively be referred to herein as “Cisco.”

6. Upon information and belief, Defendant Hewlett-Packard Co. (“HPCo”) is, and at all relevant times mentioned herein was, a corporation organized and existing under the laws of Delaware, with its principal place of business at 3000 Hanover Street, Palo Alto, California. HPCo makes, sells, and/or offers for sale a variety of products, including Power over Ethernet telephones, switches, wireless access points, routers and other devices used in WLANs, and components thereof, for consumers in the United States including in the District of Delaware.

7. Upon information and belief, Defendant 3Com Corporation (“3Com”) is, and at all relevant times mentioned herein was, a corporation organized and existing under the laws of Delaware, with its principal place of business at 350 Campus Drive, Marlborough, Massachusetts. 3Com makes, sells, and/or offers for sale a variety of products, including Power over Ethernet telephones, switches, wireless access points, routers and other devices used in WLANs, and components thereof, for consumers in the United States including in the District of Delaware. Upon information and belief, 3Com is a wholly-owned subsidiary of HPCo. Defendants HPCo and 3Com will collectively be referred to herein as “HP.”

8. Upon information and belief, Defendant Avaya Inc. (“Avaya”) is, and at all relevant times mentioned herein was, a corporation organized and existing under the laws of Delaware, with its principal place of business at 211 Mount Airy Road Basking Ridge, New Jersey. Avaya makes, sells, and/or offers for sale a variety of products, including Power over Ethernet telephones, switches, wireless access points, routers and other devices used in WLANs,

and components thereof, for consumers in the United States including in the District of Delaware.

9. Upon information and belief, Defendant Extreme Networks, Inc. (“Extreme”) is, and at all relevant times mentioned herein was, a corporation organized and existing under the laws of Delaware, with its principal place of business at 3585 Monroe Street, Santa Clara, California. Extreme makes, sells, and/or offers for sale a variety of products, including Power over Ethernet telephones, switches, wireless access points, routers and other devices used in WLANs, and components thereof, for consumers in the United States including in the District of Delaware.

JURISDICTION AND VENUE

10. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 271 *et seq.* This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

11. This Court has personal jurisdiction over each of the Defendants. The Defendants have conducted and do conduct business within the State of Delaware. The Defendants, directly or through intermediaries (including distributors, retailers, and others), ship, distribute, offer for sale, sell, and advertise (including making interactive web pages available to the public) their products in the United States and the State of Delaware. Each of the Defendants has purposefully and voluntarily placed infringing products in the stream of commerce with the knowledge and expectation that they will be purchased by consumers in the District of Delaware. These infringing products have been and continue to be purchased and used by consumers in the District of Delaware. Each of the Defendants has separately committed patent infringement within the State of Delaware.

12. Venue is proper in the District of Delaware under 28 U.S.C. §§ 1391 and 1400(b).

13. Joinder of the Defendants is proper pursuant to 35 U.S.C. § 299(a) at least because each Defendant's infringing products practice the IEEE 802.3af and/or 802.3at standards, the practice of which by each Defendant necessarily results in infringement of the '250 Patent, and because, upon information and belief, each Defendant was involved or maintained an active role in the same transactions, occurrences, or series of transactions or occurrences that resulted in the setting of those standards by the relevant IEEE committees. In addition, questions of fact common to all of the Defendants will arise in the action at least because, upon information and belief, Defendants' infringing acts arise from their common acts of adhering to and practicing the IEEE 802.3af and/or 802.3at standards.

CLAIM FOR PATENT INFRINGEMENT

14. Plaintiffs refer to and incorporate herein the allegations of Paragraphs 1-13 above.

15. United States Patent No. 7,457,250, as reexamined ("the '250 Patent"), entitled "System for Communicating With Electronic Equipment," was duly and legally issued by the United States Patent and Trademark Office on November 25, 2008, and the reexamination certificate thereof was duly and legally issued on March 1, 2011, with ChriMar Systems as the assignee. A copy of the '250 Patent is attached as Exhibit A.

16. Defendants have been and are now directly infringing, and/or indirectly infringing by inducement and/or contributing to the infringement, of the Patent-in-Suit in this District and elsewhere by making, using, offering for sale, selling, importing, exporting, supplying and/or distributing within, to, and/or from the United States products, including, but

not limited to Power over Ethernet telephones, switches, wireless access points, routers and other devices used in wireless local area networks, and/or cameras and components thereof that are compliant with the IEEE 802.3af and/or 802.3at standards and are covered by at least one claim of the Patent-in-Suit, or inducing such use or contributing thereto, and/or importing into the United States such products made by methods that practice at least one claim of the Patent-in-Suit, or inducement thereof or contribution thereto, all to the injury of Plaintiffs in violation of 35 U.S.C. § 271(a), (b), (c), (f), and/or (g).

17. Upon information and belief, Defendants have performed and/or perform acts that constitute contributory infringement with knowledge of the Patent-in-Suit and knowing that the accused products were especially made or especially adapted for use in an infringement of the '250 Patent, and are not a staple article or commodity of commerce suitable for substantial non-infringing use. Upon information and belief, each Defendant knows of or is willfully blind to the '250 Patent at least through its participation in the relevant standards committees (e.g. IEEE 802.3af and/or 802.3at) and/or through the filing of this Complaint. Upon information and belief, Defendants' acts of indirect infringement contribute to the direct infringement by their respective customers' use of Power over Ethernet telephones, switches, wireless access points, routers and other devices used in WLANs, and components thereof.

18. Upon information and belief, Defendants have performed and/or perform the acts that constitute induced infringement with knowledge of the Patent-in-Suit and with the knowledge or willful blindness that the induced acts would constitute infringement. Upon information and belief, each Defendant knows of or is willfully blind to the '250 Patent at least through its participation in the relevant standards committees (e.g. IEEE 802.3af and/or 802.3at) and/or through the filing of this Complaint. Upon information and belief, Defendants' acts of

indirect infringement induce the direct infringement by their respective customers' use of Power over Ethernet telephones, switches, wireless access points, routers and other devices used in WLANs, and components thereof.

19. Upon information and belief, Avaya and Extreme jointly infringe one or more of the asserted claims of the '250 Patent.

20. Upon information and belief, there is an agency and/or contractual relationship between Avaya and Extreme, and/or there is otherwise a relationship between Avaya and Extreme such that the acts of one may be attributed to the other in terms of the practice of one or more of the asserted claims of the '250 Patent.

21. Plaintiffs have been irreparably harmed by the Defendants' acts of infringement of the Patent-in-Suit, and will continue to be harmed unless and until Defendants' acts of infringement are enjoined by this Court. Plaintiffs have no adequate remedy at law to redress Defendants' continuing acts of infringement. The hardships that would be imposed upon Defendants by an injunction are less than those faced by Plaintiffs should an injunction not issue. Furthermore, the public interest would be served by issuance of an injunction.

22. As a result of Defendants' acts of infringement, Plaintiffs have suffered and will continue to suffer damages in an amount to be proved at trial.

REQUESTED RELIEF

Plaintiffs respectfully request the following relief:

- A. A judgment that Defendants have infringed the Patents-in-Suit;
- B. A permanent injunction, enjoining Defendants, their agents, employees, representatives, successors and assigns, and those acting in privity or in concert with them, from further infringement of the Patent-in-Suit;

C. A judgment and order that the Defendants pay Plaintiffs damages under 35 U.S.C. § 284, including supplemental damages for any continuing post-verdict infringement until Defendants are enjoined from further infringing activities;

D. An accounting of damages through verdict and thereafter until Defendants are enjoined from further infringing activities;

E. A judgment and order requiring Defendants to pay to Plaintiffs pre-judgment and post-judgment interest on the damages awarded, including an award of prejudgment interest, pursuant to 35 U.S.C. § 284, from the date of each act of infringement of Patents-In-Suit by Defendants to the day a damages judgment is entered, and a further award of post-judgment interest, pursuant to 28 U.S.C. § 1961, continuing until such judgment is paid, at the maximum rate allowed by law;

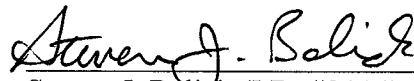
F. A judgment and order finding this to be an exceptional case and requiring Defendants to pay the costs of this action (including all disbursements), attorneys' fees as provided by 35 U.S.C. § 285, and enhanced damages under 35 U.S.C. § 284; and

G. Such other and further relief as the Court deems just and equitable.

REQUEST FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs hereby respectfully request a trial by jury on all issues triable of right by a jury.

ASHBY & GEDDES



Steven J. Balick (I.D. #2114)
Tiffany Geyer Lydon (I.D. #3950)
Lauren E. Maguire (I.D. #4261)
500 Delaware Avenue, 8th Floor
P.O. Box 1150
Wilmington, DE 19899
sbalick@ashby-geddes.com
tlydon@ashby-geddes.com
lmauire@ashby-geddes.com

Of Counsel:

Benjamin Levi
Robert A. Auchter
Jeffrey I. Frey
McKool Smith, P.C.
1999 K Street, N.W., Suite 600
Washington, DC 20006
(202) 370-8300

Attorneys for Plaintiff

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