

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ORCKIT CORPORATION,

Plaintiff,

v.

ARISTA NETWORKS INC.,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Orckit Corporation (“Orckit” or “Plaintiff”) submits this Complaint for patent infringement against Defendant Arista Networks Inc. (“Arista” or “Defendant”), requests a trial by jury, and alleges the following upon actual knowledge with respect to itself and its own acts and upon information and belief as to all other matters:

NATURE OF ACTION

1. This is an action for patent infringement. Orckit alleges that Arista infringes U.S. Patents Nos. 7,545,740 (“the ’740 Patent”), 8,830,821 (“the ’821 Patent”), and 10,652,111 (“the ’111 Patent”) (collectively, “the Asserted Patents”), copies of which are attached hereto.

2. Orckit alleges that Arista: (1) directly and indirectly infringes the Asserted Patents by making, using, offering for sale, selling, and importing certain networking hardware and software; (2) induces infringement of the Asserted Patents and contributes to others’ infringement of the Asserted Patents; and (3) infringes the Asserted Patents willfully. Orckit seeks damages and other relief for Arista’s wrongful conduct.

PARTIES

3. Orckit is a Delaware corporation and owns the Asserted Patents by assignment.

4. Arista is a Delaware corporation with its principal place of business at 5453 Great America Parkway, Santa Clara, CA 95054.

5. Arista is registered to do business in Delaware, and, on information and belief, conducts business in Delaware. On information and belief, a substantial part of the events giving rise to Plaintiff's claims, including acts of patent infringement, have occurred in Delaware and this Judicial District.

6. Arista has a permanent and continuous presence in Delaware and this Judicial District.

JURISDICTION AND VENUE

7. This action arises under the patent laws of the United States, 35 U.S.C. § 271 *et seq.* The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. The Court has personal jurisdiction over Arista because it is incorporated in Delaware. Additionally, as alleged above, Arista has sufficient minimum contacts with Delaware so that this action does not offend due process or the traditional notions of fair play and substantial justice. Among other factors, Arista is (i) registered to do business in Delaware, (ii) is incorporated in and has purposefully availed itself of the rights and benefits of the laws of Delaware and this Judicial District, and (iii) has a continuous presence in and systematic contact with this district. Upon information and belief, Arista derives substantial revenue from the goods and services that it provides to its customers in Delaware directly or through intermediaries both generally and with respect to the allegations in this Complaint. Arista also undertakes a portion of its infringing activities in Delaware—including by making, using, importing, offering for sale, and selling

products and services that infringe the Asserted Patents—directly and through its distributors, retailers, and other intermediaries.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. §§1391(b), (c), (d) and 1400(b) because Arista resides in this District under the Supreme Court’s opinion in *TC Heartland v. Kraft Foods Group Brands LLC*, 137 S. Ct. 1514 (2017) through its incorporation in this District. Additionally, upon information and belief, Arista has a permanent and continuous presence in and has committed acts of infringement in this Judicial District.

FACTUAL ALLEGATIONS

Orckit Communications Ltd. and Its Breakthrough Communications Technology

10. The patented technology is rooted in research by Orckit Communications Ltd. (later reorganized and renamed Orckit-Corrigent Ltd.), a company founded in Israel in 1990 by Izhak Tamir. The company was a pioneer in the development of infrastructure-level networking products, and in its first decade became the market leader in Asymmetric Digital Subscriber Line (ADSL) technology, winning a client base that included some of the world’s preeminent telecommunications providers. The company went public, and in 1996 was listed in the United States on the Nasdaq Stock Exchange.

11. Building from that initial success, Orckit Communications Ltd. turned its attention to overcoming significant limitations in Ethernet, the predominant technology used for local area networks used in offices, schools and other local environments. With the proliferation of data and the development of the Internet, demand for the data transmission skyrocketed. While Ethernet could be used to connect a limited number of computers, it was not well suited to the delivery of video, voice, and other applications with higher bandwidth requirements for a larger number of users. The existing standard for delivering voice communications, known as the Synchronous

Optical Network (“SONET”) protocol, was not a viable alternative because it was not designed to process data in an efficient and scalable way. As a result, providers like cable companies were required to develop and install their own infrastructure to deliver services and could not rely on a single network to provide different services in parallel.

12. Orckit Communications Ltd.’s solutions addressed those shortcomings. It quickly recognized that existing solutions could accommodate network traffic only so long as data occupied only a small portion of overall network traffic. The company’s technology overcame those limitations by enhancing Ethernet switching and routing to optimize the transmission of data, voice and video, including those using Internet Protocol (“IP”) telecommunications networks. The capacity, reliability, and resilience offered by Orckit Communications Ltd.’s inventions opened up the possibility of the transmission of data, voice, and video services on the same network—the hugely valuable “bundled services” or “triple-play services” sought by both telecommunications companies and their customers.

13. Between 2000 and 2010, Orckit Communications Ltd. invested hundreds of millions of US dollars in research and development of those solutions. It earned recognition around the world for those innovations and won contracts to rebuild national telecommunications infrastructure systems along with hundreds of patents—including those at issue in this lawsuit.

14. With the economic downturn of 2007 and 2008, many of Orckit Communications Ltd.’s most significant potential customers dramatically reduced their infrastructure spending. Even with its superior technology the company was unable to weather the global recession and ultimately went into liquidation.

15. Plaintiff Orckit Corporation obtained all rights to the Asserted Patents.

The Asserted Patents

U.S. Patent No. 7,545,740

16. Orckit is the lawful owner of all right, title, and interest in U.S. Patent No. 7,545,740 (“the ’740 Patent”) entitled “TWO-WAY LINK AGGREGATION” (attached as Exhibit 1), including the right to sue and recover for infringement thereof. The ’740 Patent was duly and legally issued on June 9, 2009, naming David Zelig, Ronen Solomon, and Uzi Khill as the inventors.

17. The ’740 Patent has 31 claims: 12 independent claims and 19 dependent claims.

18. The ’740 Patent presented novel and unconventional apparatuses and methods for (among other things) “connecting users to a communication network with increased capacity and use of service.” Ex. 1, ’740 Patent at 1:39-41. The inventions patented in the ’740 Patent, for example, distribute data frames among “parallel physical links, so as to balance the traffic load among the links,” a process that in turn enables the network to “deliver a higher bandwidth at a given [quality of service (‘QoS’)] or to improve the QoS at a given bandwidth.” *Id.* at 1:48-55. The patented “load balancing operation in embodiments of the present invention enables statistical multiplexing of the frames, in which there is no direct relationship or connection between user ports and backplane traces.” *Id.* at 2:1-4. Furthermore, “[i]n some embodiments, two or more physical user ports are aggregated into a [link aggregation] group external to the network element, so as to form an aggregated user port having a higher bandwidth.” *Id.* at 2:5-8. One embodiment of the inventions of the ’740 Patent is shown in Fig. 2, reproduced below:

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