

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

PACKET INTELLIGENCE LLC,

Plaintiff,

v.

**SANDVINE CORPORATION, and
SANDVINE INCORPORATED ULC,**

Defendants.

Civil Action No. _____

JURY TRIAL DEMANDED

PACKET INTELLIGENCE LLC'S COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Packet Intelligence LLC ("Packet Intelligence" or "Plaintiff"), by and through its undersigned attorneys hereby demands a jury trial and alleges the following in support of its Complaint for patent infringement against Defendants Sandvine Corporation and Sandvine Incorporated ULC (collectively, "Sandvine," "Sandvine Defendants," or "Defendants"):

THE PARTIES

1. Plaintiff Packet Intelligence is a limited liability company existing under the laws of Texas with its principal place of business at 505 East Travis Street Suite 209, Marshall, TX 75670.

2. Defendant Sandvine Corporation is a corporation organized and existing under the laws of Ontario, Canada, with its registered principal office at 408 Albert Street, Waterloo, Ontario, Canada, N2L 3V3. The shares of Sandvine Corporation are publicly traded on the Toronto Stock Exchange.

3. Defendant Sandvine Incorporated ULC is a corporation organized and existing under the laws of Alberta, Canada. It is a wholly owned “operating subsidiary” of Defendant Sandvine Corporation, and lists the same mailing address and headquarters as its corporate parent, at 408 Albert Street, Waterloo, Ontario, Canada, N2L 3V3.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the Patent Laws of the United States, 35 U.S.C. § 1 et seq.

5. This Court has personal jurisdiction over the Sandvine Defendants, who have conducted and continue to conduct business within the State of Texas, and within the Eastern District of Texas. The Sandvine Defendants directly and/or through intermediaries (including distributors, sales agents, and others), ship, distribute, offer for sale, sell, advertise, and/or use their products (including, but not limited to, the products that are accused of patent infringement in this lawsuit) in the United States, the State of Texas, and the Eastern District of Texas. The Sandvine Defendants have committed patent infringement within the State of Texas, and, more particularly, within the Eastern District of Texas as alleged in more detail below.

6. Venue is proper in this federal district under 28 U.S.C. §§ 1391(b) and (c). On information and belief, Defendant has transacted business in this district and has committed acts of patent infringement in this district.

7. On information and belief arising from Sandvine personnel “LinkedIn” advertisements, from August 2006 to January 2011, Sandvine’s “Director Strategic Accounts” resided in or near this district, and from January 2011 to the present, Sandvine’s “Regional Vice President Sales, U.S.,” has resided in or near this district.

8. On information and belief arising from Sandvine personnel “LinkedIn” advertisements, Sandvine’s “Sales Engineering Director, CALA” has resided in or near this district from July 2010 to the present.

9. A “Comprehensive Business Report” from LexisNexis discloses two addresses for Sandvine Corp. located within Collin County in this judicial district, which both appear to be related to Sandvine Corp. worker compensation coverage. (*See* Exhibits 1 and 2). On information and belief, the Sandvine Corp. referred to in these LexisNexis reports refer to one more of the Sandvine Defendants.

10. On information and belief, Sandvine has and does regularly promote, offer to sell, sell, and use infringing products and technology throughout Texas, including in and near this district. Sandvine has also sold infringing products and technology to customers for use within Texas, and within this district.

11. On information and belief arising from press releases, Sandvine has and/or had a business relationship with Peoples Telephone Cooperative—a Quitman, Texas-based company to which Sandvine provided IP service control platform technology. Quitman, Texas is located within this judicial district.

12. On information and belief arising from press releases, Sandvine has sold its accused Policy Traffic Switch and Policy Engine technology to SpeedConnect, which maintains its regional office in San Angelo, Texas and serves customers with wireless broadband Internet, DISH TV and telephone service in Texas.

13. On information and belief arising from press releases, Sandvine itself has promoted and demonstrated its internet and cloud services controller technology in Texas,

including for example at the 2015 MEF Global Ethernet Networking (GEN15) conference at the Omni Hotel in Dallas, Texas.

14. On information and belief arising from press reports and Sandvine regulatory disclosures, Sandvine's customers for the accused infringing technology include five of the top six—and eight of the top ten—cable operators in North America. On information and belief, Sandvine supplies its cable operator customers with infringing technology that is offered for sale, sold and/or used throughout Texas, including in this district.

15. The Sandvine Defendants operate an interactive website at www.sandvine.com that is accessible in Texas and this district. This website advertises and promotes Sandvine's accused Policy Traffic Switch (PTS) and Policy Engine (PE) products. The webpages describing Sandvine's PTS and PE products contain hyperlinks to connect with Sandvine staff so that Sandvine can discuss its PTS and PE products with customers and/or potential customers. The Sandvine website's PTS and PE product literature also separately contains information to directly contact Sandvine's sales staff.

16. All of the patents asserted in this Complaint were previously asserted in a lawsuit filed in this district on March 12, 2013, in *Packet Intelligence, LLC v. Huawei Device USA Inc., et al*, Case No. 2:13-cv-00206-JRG-RSP (E.D. Tex.). The case was dismissed by agreement of the parties on March 4, 2014 (Dkts. 53 and 54).

17. All of the patents asserted in this Complaint were previously asserted in a lawsuit filed in this district on March 24, 2014, in *Packet Intelligence LLC v. Cisco Systems Inc.*, Case No. 2:14-cv-00252-JRG (E.D. Tex.). The case was dismissed by agreement of the parties on March 2, 2015 (Dkt. 106).

THE ASSERTED PATENTS-IN-SUIT

18. On November 18, 2003, the United States Patent and Trademark Office (USPTO) duly and legally issued U.S. Patent No. 6,651,099 (“the ’099 Patent”) entitled “Method and Apparatus for Monitoring Traffic in a Network.” Packet Intelligence owns all substantial rights to the ’099 Patent, including the right to sue and recover damages for all infringement thereof. Documents assigning the ’099 Patent to Packet Intelligence were recorded at the USPTO on February 1, 2013 at Reel/Frame 29737-613. Attached hereto as Exhibit 3 is a true and correct copy of the ’099 Patent.

19. The ’099 patent has been cited as pertinent prior art by either an applicant, or a USPTO examiner, during the prosecution of more than 275 issued patents and published patent applications, including during the prosecution of patent applications filed by Alcatel Lucent, AT&T, Broadcom, Cisco, Ericsson, F5 Networks, Fortinet, Hewlett-Packard, IBM, Intel, Juniper Networks, McAfee, Microsoft, Nokia, Samsung, Sonus Networks, Symantec, Verizon, VMware, and the United States of America as represented by the National Security Agency.

20. On December 16, 2003, the USPTO duly and legally issued U.S. Patent No. 6,665,725 (“the ’725 Patent”) entitled “Processing Protocol Specific Information in Packets Specified by a Protocol Description Language.” Packet Intelligence owns all substantial rights to the ’725 Patent, including the right to sue and recover damages for all infringement thereof. Documents assigning the ’725 Patent to Packet Intelligence were recorded at the USPTO on February 1, 2013 at Reel/Frame 29737-613. A true and correct copy of the ’725 Patent is attached hereto as Exhibit 4.

21. The ’725 patent has been cited as pertinent prior art by either an applicant, or a USPTO examiner, during the prosecution of more than 260 issued patents and published patent

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