UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

CISCO SYSTEMS, INC.

Plaintiff,

v.

CHRIMAR SYSTEMS, INC.,

Defendant.

Case No. 2:17-cv-13770-AC-RSW

Honorable Avern Cohn

Magistrate Judge R. Steven Whalen

HEWLETT-PACKARD ENTERPRISE COMPANY, HP INC. f/k/a HEWLETT-PACKARD COMPANY, AND ARUBA NETWORKS, INC.

Plaintiffs,

v.

CHRIMAR SYSTEMS, INC.,

Defendant.

Case No. 2:17-cv-13784-AC-RSW

Honorable Avern Cohn

Magistrate Judge R. Steven Whalen

JURY TRIAL DEMANDED

DEFENDANT'S ANSWER, AFFIRMATIVE DEFENSES, JURY DEMAND AND COUNTERCLAIM TO FIRST AMENDED COMPLAINT OF PLAINTIFF CISCO

In the 1990's Defendant ChriMar Systems Inc., d/b/a CMS Technologies ("Chrimar" or "Defendant") developed commercial products that could distinguish and identify Ethernet equipment remotely, even when that equipment did not have any of its operational power applied. The Ethernet equipment industry later adopted standards that used Chrimar's technology in a way that pushed Chrimar's products off the Ethernet data lines they used to distinguish and identify Ethernet equipment. Chrimar obtained several patents covering its technology and has licensed its product to and/or successfully enforced them against numerous parties in the industry. On February 17, 2018, Plaintiff Cisco Systems, Inc. ("Cisco") filed a First Amended Complaint and Jury Demand declaring that Cisco does not infringe Chrimar's U.S. Patent Nos. 8,155,012 ("the '012 Patent"), 8,942,107 ("the '107 Patent"), 8,902,760 ("the '760 Patent"), 9,049,019 Patent ("the '019 Patent"), 9,019,838 ("the '838 Patent"), and 9,812,825 ("the '825 Patent"), but does not identify any limitation of any claim from those patents that Cisco does not practice. Cisco raises other claims as well. As explained below, Chrimar denies Cisco's allegations and counterclaims for infringement. More specifically, Chrimar by and through its attorneys, Brooks Kushman P.C., and for its answer to Plaintiff's Complaint, states as follows:

PARTIES

1. Cisco Systems, Inc. is a California corporation with its principal place of business on Tasman Drive in San Jose, California 95134.

ANSWER: Admitted.

2. On information and belief, ChriMar Systems, Inc. d/b/a CMS Technologies is a Michigan corporation with its principal place of business at 36528 Grand River Avenue, Suite A-1 in Farmington Hills, Michigan.

ANSWER: Admitted that Chrimar Systems, Inc. is a Michigan corporation, the remaining allegations are denied.

JURISDICTION AND VENUE

3. This action is predicated on the patent laws of the United States, Title 35 of the United States Code, with a specific remedy sought based upon the laws authorizing actions for declaratory judgment in the courts of the United States, 28 U.S.C. §§ 2201 and 2202. This court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), and 1367.

ANSWER: Admitted that this action is predicated on the patent laws of the United States, otherwise denied.

4. An actual and justiciable controversy exists between ChriMar and Cisco as to the noninfringement and unenforceability of U.S. Patent Nos. 8,155,012 ("'012 Patent") (attached as Exhibit A), 8,942,107 ("'107 Patent") (attached as Exhibit B), 8,902,760 ("'760 Patent") (attached as Exhibit C), 9,049,019 ("'019 Patent") (attached as Exhibit D), 9,019,838 ("'838 Patent") (attached as Exhibit E), and 9,812,825 ("'825 Patent") (attached as Exhibit F). As further alleged below, ChriMar is and has been engaged in a campaign to license and enforce its patent portfolio against manufacturers and sellers of Power over Ethernet ("PoE") networking products, including Cisco. In connection with ChriMar's licensing campaign targeting PoE products, Cisco is currently involved in litigation against ChriMar with respect to U.S. Patent Nos. 7,457,250 ("'250 Patent")[1], and filed declaratory judgment actions involving the '012[2], '107, '760 Patent[3], '019, and '838 Patents[4]. The '250 Patent litigation involves PoE products implementing the IEEE

[1] *ChriMar Systems, Inc. v. Cisco Systems, Inc.*, No. 4:13-cv-1300-JSW (N.D. Cal.).

[2] *Cisco Systems, Inc. et al v. ChriMar Systems, Inc. d/b/a CMS Technologies,* No. 2:14-cv-10290 (E.D. Mich.) (Cisco has voluntarily dismissed this action for the reasons described in paragraph 4 herein.)

[3] *Cisco Systems, Inc. v. ChriMar Systems, Inc. d/b/a CMS Technologies,* No. 2:15-cv-10817 (E.D. Mich.) (Cisco has voluntarily dismissed this action for the reasons described in paragraph 4 herein.)

[4] *Cisco Systems, Inc. v. ChriMar Systems, Inc. d/b/a CMS Technologies,* No. 2:15-cv-12565 (E.D. Mich.) (Cisco has voluntarily dismissed this action for the reasons described in paragraph 4 herein.)

802.3af and 802.3at standards. Cisco also filed (and has since voluntarily dismissed in order to consolidate those allegations in the instant complaint and to drop Cisco's requests for of invalidity so that Cisco is free to pursue, if warranted, *inter partes* review ("IPR") proceedings challenging the validity of the patents at issue in those cases (numerous claims of which have already been found to be invalid in other IPR proceedings)) declaratory judgment actions in this District concerning the '012, '107, '760, '019, and '838 Patents. Cisco maintains that the '012, '107, '760, '019, '838, and '825 Patents are unenforceable, and are not infringed by Cisco's PoE products implementing IEEE Standards 802.3af/at.

ANSWER: Denied.

5. This Court has personal jurisdiction over ChriMar at least because, on information and belief, ChriMar is a Michigan corporation having its principal place of business within the Eastern District of Michigan at 36528 Grand River Avenue, Suite A-1 in Farmington Hills, Michigan. ChriMar has had substantial business contacts with Michigan including product sales to Michigan entities, and ChriMar's campaign to enforce and license its patent portfolio, including the '012, '107, '760, '019, '838, and '825 Patents, has a substantial relationship to Michigan. ChriMar has availed itself of the laws of this District in connection with its current portfolio

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